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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

CORY SPENCER, an individual;  
DIANA MILENA REED, an individual;  
and COASTAL PROTECTION  
RANGERS, INC., a California non-profit  
public benefit corporation,

Plaintiffs ,

v.

LUNADA BAY BOYS; THE  
INDIVIDUAL MEMBERS OF THE  
LUNADA BAY BOYS, including but  
not limited to SANG LEE, BRANT  
BLAKEMAN, ALAN JOHNSTON  
AKA JALIAN JOHNSTON, MICHAEL  
RAE PAPAYANS, ANGELO  
FERRARA, FRANK FERRARA,  
CHARLIE FERRARA, and NICOLAS  
FERRARA; CITY OF PALOS  
VERDES ESTATES; CHIEF OF  
POLICE JEFF KEPLEY, in his  
representative capacity; and DOES 1-10,

Defendants.

**Case No.: 2:16-CV-2129-SJO-RAO**

Assigned to Courtroom: 10C  
The Honorable S. James Otero

Magistrate Judge:  
Hon. Rozella A. Oliver

**JOINT STIPULATION RE  
DISCOVERY PROPOUNDED BY  
DEFENDANT BRANT BLAKEMAN  
TO PLAINTIFFS [L.R.37-2.1]**

**Discovery Cut-Off**

**Date: 8/7/17**

**Pretrial Conf. Date: 10/23/17**

**Trial Date: 11/7/17**

**NB:** With identical discovery and virtually identical responses to and from each  
Plaintiff, a consolidated stipulation as to all discovery is agreed to by the parties.

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1 **1. DEFENDANT BLAKEMAN'S INTRODUCTORY STATEMENT**

2 On March 29, 2016 Plaintiffs Cory Spencer, Diana Milena Reed, and Costal  
3 Protection Rangers, Inc., (collectively "Plaintiffs") filed a complaint against  
4 various defendants including Brant Blakeman ("Blakeman"). (See Doc. 1  
5 [Complaint].) The complaint alleges, *inter alia*, Blakeman is part of a gang called  
6 the Lunada Bay Boys, he is part of a Civil Conspiracy, and that a class should be  
7 certified against him and the Lunada Bay Boys under Fed. R. of Civ. P. 23. (See  
8 Id., ¶¶ 4- 7 , ¶¶ 51- 53 ¶¶ 30-42 .) Each Plaintiff alleges causes of action against  
9 Blakeman for Bane Act violations, Public Nuisance, Assault, Battery, and  
10 Negligence. (See Id., ¶¶ 43- 50, ¶¶ 54-60, ¶¶ 95- 98, ¶¶ 99- 101, ¶¶ 102- 106.)

11 A Rule 26 meeting occurred on August 5, 2016. (Doc. 106 [R. 26 Joint  
12 Report], pp. 2:23-4:3.) Despite this case being a class action plaintiff's took the  
13 position that discovery should generally not be expanded beyond the standard  
14 confines in the Federal Rules, including not phasing discovery between class and  
15 merits discovery. (See Id., pp. 7:6- 9:18.) The scheduling order does not modify  
16 rules regarding discovery and the parties were expressly reminded of their  
17 obligations under Fed. R. Civ. P. 26-1(a) to disclose information without a  
18 discovery request. (See Doc. 120 [Minutes RE Scheduling Conference].)

19 Plaintiffs' initial disclosures were served as a collective response on August  
20 19, 2016 and they disclosed 116 witnesses. (See Ex. 1 [Plaintiffs' Initial  
21 Disclosures]. pp. 3:6-17:28.) Plaintiffs refused to disclose the subject of the  
22 information discoverable from 77 non party witnesses. (See Ex. 1 pp. 3:6-17:28  
23 [Witnesses Nos. 11, 12, 15-91] .)

24 On September 2, 2016 Blakeman sent a letter to Plaintiffs addressing their  
25 failure to adequately provide discoverable information and requesting a meeting  
26 under Local Rule 37-1. (See Exhibit 2 [Sept. 2, 2016 Letter].) Plaintiffs  
27 responded on September 7, 2016 and indicated they would not comply with the  
28 time requirements of Local Rule 37-1. (See Exhibit 3 [Sept. 7, 2016 Email].) This

1 was despite plaintiffs being represented by two law firms, and one which appears  
2 to have more than 150 attorneys. (<https://www.hansonbridgett.com/Our-Attorneys.aspx>.)

4 On September 9, 2016 Blakeman responded to Plaintiffs.(See Ex. 4 [Sept. 9,  
5 2016 Letter].) Plaintiffs refused to have L.R. 37-1 conference until September 14,  
6 2016 and refused to meet in person. Plaintiffs agreed to supplement the  
7 disclosures by September 23, 2016. They failed to do so. They then  
8 acknowledged the failure and promised to send them by September 30th. (See Ex  
9 5, Sept. 28, 2016 email.) They failed again. Plaintiffs' supplemental disclosures  
10 were not sent until Sunday October 2, 2016. (See Ex. 6, pp. 31:19-32:8 [Plaintiffs'  
11 Supplemental Disclosures].) The supplemental disclosures indicate only one non-  
12 party witness who may have knowledge as to Blakeman. (See Id., pp. 19:16-21  
13 [Witness No. 60, Ken Claypool].)

14 During the dispute over the disclosure Blakeman propounded on each  
15 plaintiff the same 12 interrogatories and 12 production requests on September 16,  
16 2016. (See Ex. 7 [Interrogatories] and Ex. 8 [Request for Production].) The  
17 discovery requests seek the identity of witnesses, the facts believed to be within  
18 that witnesses knowledge, and the production of documents that support specific  
19 contentions in Plaintiffs' complaint against Blakeman.

20 While the discovery was pending Plaintiffs noticed and rescheduled  
21 Blakeman's deposition for November 10, 2016. On October 20, 2016 Plaintiffs  
22 mailed their discovery responses from their counsel's San Francisco and  
23 Sacramento offices. (See Ex. 9 [Plaintiffs' Responses to Interrogatories] and Ex.  
24 10 [Plaintiffs' Responses to Production Requests].) The interrogatory response  
25 contained only objections and the responses to the production requests did not  
26 include the production of any documents despite Plaintiffs' affirmation that  
27 documents would be produced. (See Ex. 9 [All Interrogatories] and Ex. 10  
28 [Request Nos. 1-5 and 7-9].)

1 On October 28, 2016 a meet confer letter was sent to Plaintiffs' counsel Kurt  
2 Franklin as his office had signed and served Plaintiffs' discovery responses. (Ex.  
3 11 [Oct. 28, 2016 Letter].) In the letter the merits of the objections were  
4 addressed, further responses were requested, documents were requested to be  
5 produced, the letter in no uncertain terms indicated Blakeman's deposition will not  
6 go forward until the dispute was resolved, *and a meeting was requested pursuant*  
7 *to Local Rule 37-1.* (Id.) Mr. Franklin has never responded directly to this  
8 correspondence nor have any of the 150 or more attorneys at his law firm.

9 Plaintiffs' counsel in Los Angeles, Mr. Otten, on November 1, 2016  
10 indicated he was not willing to take Blakeman's deposition off calendar, was in  
11 trial, was willing to meet after Blakeman's deposition, and would respond to the  
12 contention in writing at a later time. (Ex. 12., Nov. 1, 2016 email from Otten[.] )

13 On November 7, 2016, 10 days after Blakeman's meet and confer letter was  
14 sent, Blakeman again sent a letter detailing Plaintiffs' discovery abuses including  
15 withholding of discoverable information by Plaintiffs and the discovery delays  
16 caused by Plaintiffs. (See Ex. 13 [Nov. 7, 2016 Email and Letter].)

17 Later that same day, and after Blakeman's correspondence was sent by email  
18 to Plaintiffs, Plaintiffs responded to Blakeman's October 28, 2016 letter refusing to  
19 identify witnesses or further respond to the interrogatories and referencing their  
20 having dumped 2000 pages of documents on Friday November 4, 2016 on the  
21 parties. (See Ex. 14 [November 7, 2016 Email and Letter].) The dumped  
22 documents referenced are not identified as responsive to the discovery.

23 The dispute comes before the Court because by Plaintiffs' stalling non-  
24 compliance with Local Rule 37-1 and FRCP 37, Blakeman is prejudiced in his  
25 defense, and he seeks an order compelling the discovery, and costs from this Court.

## 26 **2. PLAINTIFFS' INTRODUCTORY STATEMENT**

27 The Plaintiffs brought this lawsuit to stop a gang known as the Lunada Bay  
28 Boys from excluding people from accessing and using a public beach called

1 Lunada Bay located in Palos Verdes Estates. The Complaint alleges that for 40  
2 years, the Lunada Bay Boys – which includes the individually-named Defendants –  
3 have used illegal means, such as assault, threats, vandalism, and intimidation, to  
4 block non-local beachgoers from accessing the beach and Lunada Bay.

5 This discovery dispute involves individual Defendant Brant Blakeman's  
6 improper and premature discovery requests. Plaintiffs filed the Complaint on June  
7 16, 2016. The parties first met and conferred to discuss case management in this  
8 matter pursuant to Fed. R. Civ. P. 26(f) on August 5, 2016, prior to the Scheduling  
9 Conference on August 29, 2016. Discovery first commenced on September 11,  
10 2016, just two and a half months ago. The discovery cut-off is more than eight  
11 months away, on August 7, 2017. Plaintiffs' last day to file a Motion for Class  
12 Certification is December 30, 2016, and trial is set for November 7, 2017.

13 Discovery is in its early stages. Defendants have over 8 months to propound  
14 discovery, including requests about contentions. Contention discovery is  
15 appropriate when discovery is “substantially complete.” *See* Fed. R. Civ. P.  
16 33(a)(2). Thus, Defendants' discovery and the instant motion are premature.

17 Additionally, to date, none of the individual Defendants have produced a  
18 single document in discovery – either pursuant to their initial disclosures or in  
19 response to requests for production of documents. In fact, Mr. Blakeman identified  
20 in his initial disclosures that he is in possession of two videos but has failed to turn  
21 them over to Plaintiffs. One of these videos relates to an incident involving  
22 Plaintiff Diana Reed and Defendants Alan Johnston and Blakeman, and is  
23 described in the Complaint. On November 21, 2016, Plaintiffs deposed Mr.  
24 Blakeman (who had to be ordered by this court to appear for his deposition)  
25 without the benefit of having viewed this video. This is significant because Mr.  
26 Blakeman is seeking to compel Plaintiffs' responses to contention interrogatories  
27 but, as set forth above, he is in control of much of the evidence needed to respond.

28 ///



**Improper Procedure and Insufficient Meet and Confer Attempt**

On September 16, 2016, Mr. Blakeman served identical Interrogatories and Requests of Production of Documents on Plaintiffs Cory Spencer, Diana Milena Reed, and the Coastal Protection Rangers. While this discovery contained requests that were objectionable in many respects, most significantly, it was premature because they sought or necessarily relied upon a contention. On October 20, 2016, Plaintiffs served timely objections and responses, and indicated that a production with non-privileged, responsive documents would be forthcoming.

On October 28, 2016, Mr. Blakeman's counsel, Richard Dieffenbach, sent a letter regarding Plaintiffs' discovery responses. (Decl. Otten, **Exh. A.**) In his letter, Mr. Dieffenbach improperly correlated the dispute over Plaintiffs' discovery responses with Mr. Blakeman's obligation to appear for his deposition and refused to produce Mr. Blakeman for his properly-noticed deposition on November 10, 2016. Mr. Dieffenbach also requested a conference pursuant to L.R. 37-1.

On Tuesday, November 1, 2016, counsel for Plaintiffs, Victor Otten, replied to Mr. Dieffenbach via email to remind him of Mr. Blakeman's obligation to appear for his deposition. Mr. Otten also stated, "because I'm in trial, I'm not available to meet on the ancillary meet-and-confer request on Plaintiffs' responses to Mr. Blakeman's deficient written discovery requests. I should be able to meet with you on this next week – perhaps we could meet after Mr. Blakeman's deposition." (Decl. Otten, **Exh. B.**)

Importantly, despite Mr. Otten's offer for an in-person meeting, Mr. Blakeman's counsel made no attempt to schedule the conference, per L.R. 37-1. (Decl. Otten, ¶ 4.) Defendant's counsel could have arranged an in-person or telephonic conference with Mr. Otten, or a telephonic conference with Plaintiffs' Bay Area counsel at Hanson Bridgett LLP, but requested neither. (*Id.*, ¶ 4.)

On November 4th, Plaintiffs produced 2,029 pages of responsive documents and media files. (*Id.*, ¶ 5.) Mr. Blakeman refers to this production as a "document

1 dump." The nature of his complaint is unclear, though ironic given his instant  
2 motion to compel documents. Of these files, 1,866 were documents previously  
3 produced by the City pursuant to a Public Records Act request. (*Id.*)

4 On November 7, 2016, Mr. Otten wrote to Mr. Dieffenbach and reminded Mr.  
5 Blakeman of his obligation to appear at his deposition and articulated the legal basis  
6 for Plaintiffs' objections to Mr. Blakeman's discovery. (*Id.*, **Exh. D.**) Still, Mr.  
7 Blakeman's counsel made no effort to schedule a conference as required by L.R. 37-  
8 1. (*Id.*, ¶ 7.) Instead, on November 14th at 1:08 PM, less than one hour before the  
9 telephonic hearing for Mr. Blakeman's ex parte application for a protective order to  
10 prevent his deposition, Mr. Blakeman's counsel's office sent an email with his  
11 portion of this Joint Stipulation. (*Id.*, **Exh. E.**) To date, Mr. Blakeman's counsel has  
12 still failed to schedule a conference about the issues underlying the instant motion,  
13 and instead, is wasting the Court's resources with the instant motion.

14 **Relief Requested**

15 Defendant Blakeman's requested relief is improper because contention  
16 interrogatories are premature at the initial stages of discovery, particularly in the  
17 context of class action litigation. Further, much of the evidence necessary to  
18 respond to his contention interrogatories is within the individual Defendants'  
19 custody or control, and they have refused to produce any documents to date.  
20 Additionally, Plaintiffs do not believe that any relief is necessary with respect to  
21 Blakeman's requests for production given Plaintiffs' November 4th production.

22 In light of Blakeman's continued abuse of the discovery process, Plaintiffs  
23 respectfully ask that this Court deny his requests for reimbursement of his  
24 attorneys' fees, and instead order him to compensate Plaintiffs' counsel for their  
25 fees and costs incurred in connection with this instant, needless dispute. Plaintiffs  
26 are entitled to recover their reasonable expenses. Fed. R. Civ. P. 37(a)(5).

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1 **3. SPECIFICATION OF THE ISSUES IN DISPUTE, AND THE**  
2 **PARTIES' CONTENTIONS AND POINTS AND AUTHORITIES**  
3 **WITH RESPECT TO SUCH ISSUES INTERROGATORIES**

4 1. IDENTIFY ALL PERSONS that have knowledge of any facts that  
5 support your contention that BRANT BLAKEMAN participated in any way in the  
6 "commission of enumerated 'predicate crimes'" as alleged in paragraph 5 of the  
7 Complaint , and for each such PERSON identified state all facts you contend are  
8 within that PERSON's knowledge.

9 **Plaintiffs' Response to Interrogatory #1**

10 Responding party objects to this interrogatory as unduly burdensome,  
11 harassing, and duplicative of information disclosed in Responding Party's Rule  
12 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
13 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
14 information sought by this interrogatory. Moreover, Responding Party had the  
15 opportunity to depose Mr. Spencer on this topic.

16 Responding party further objects to this interrogatory as compound. This  
17 "interrogatory" contains multiple impermissible subparts, which Propounding  
18 Party has propounded in an effort to circumvent the numerical limitations on  
19 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

20 Responding Party further objects to this interrogatory on the grounds that it  
21 seeks information that is outside of Responding Party's knowledge.

22 Responding Party further objects to the extent that this interrogatory invades  
23 attorney-client privilege and/or violates the work product doctrine by compelling  
24 Responding Party to disclose privileged communications and/or litigation strategy.  
25 Responding Party will not provide any such information.

26 Responding Party further objects to this interrogatory as premature. Because  
27 this interrogatory seeks or necessarily relies upon a contention, and because this  
28 matter is in its early stages and pretrial discovery has only just begun, Responding

1 Party is unable to provide a complete response at this time, nor is it required to do  
2 so. See *Kmiec v. Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal.  
3 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
4 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may  
5 order that [a contention] interrogatory need not be answered until designated  
6 discovery is complete, or until a pretrial conference or some other time.”).

7 Based on the foregoing objections, Responding Party will not respond to this  
8 interrogatory at this time.

9 **Defendant Brant Blakeman’s Contention**

10 The Interrogatory seeks witness information pertaining to any and all  
11 persons who plaintiffs claim support a specific contention made against Brant  
12 Blakeman in his personal capacity, not as a member of a group but as an  
13 individual.

14 The interrogatories at issue merely seek the identification of witnesses and  
15 the identification of the facts believed to be within those witnesses knowledge  
16 purportedly supporting plaintiffs’ specific allegations against Mr. Blakeman in his  
17 personal capacity.

18 The discovery requests defined "BRANT BLAKEMAN" as follows:

19 BRANT BLAKEMAN means only Brant Blakeman in his  
20 individual capacity. This definition expressly excludes  
21 Brant Blakeman as an alleged member of what plaintiff  
22 alleges are the "Lunada Bay Boys." This definition  
23 expressly excludes the actions or omissions of any other  
24 PERSON other than Brant Blakeman in his individual  
25 capacity. This definition expressly excludes acts of  
26 PERSONS other than Brant Blakeman that plaintiff  
27 attributes to Brant Blakeman under a theory of Civil  
28 Conspiracy.

Failure to produce the information sought by the Interrogatory is intended  
only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
Plaintiffs are pressing for Mr. Blakeman’s deposition for which they are purposely  
hoping to take while he is unprepared in his defense to plaintiffs’ contentions

1 against him.

2 The response offers only uniform boilerplate objections. Based on those  
3 objections, the response asserts that no answers to the requests will be provided.  
4 Because the objections are unmeritorious, a further, substantive response must be  
5 compelled.

6 **1. Undue Burden, Harassment, and Duplication**

7 Plaintiff contends that identifying the witnesses to the claims against Mr.  
8 Blakeman is unduly burdensome and harassing and the information can be found  
9 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
10 identify only one witness with potential knowledge concerning Mr. Blakeman,  
11 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
12 presented by this Interrogatory, then it certainly strains reason that answering it is  
13 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
14 did some act those witnesses likewise should be identified.

15 This objection by plaintiff is not a justification to refuse to provide a  
16 response to the interrogatory.

17 **2. The Interrogatory is Compound and has Subparts**

18 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
19 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
20 The Interrogatory seeks the identification of a witness and the facts within that  
21 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
22 "discrete subparts." Seeking the identification of witnesses and the facts within  
23 their knowledge are considered one interrogatory. (See *Chapman v. California*  
24 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
25 mathematical exercise, even were one to entertain the contention that the  
26 Interrogatory did not contain discrete subparts, there are only two: 12  
27 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
28 Rule 33 which allows for 25 interrogatories.

1 This objection by plaintiff is not a justification to refuse to provide a  
2 response to the Interrogatory.

3 **3. The Interrogatory Seeks Information that is Outside of**  
4 **Responding Party's Knowledge**

5 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
6 knowledge. This objection either wholly lacks merit or there are very troubling  
7 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

8 How is it that plaintiff can bring such egregious allegations without some  
9 personal knowledge of witnesses who will support the allegations (including the  
10 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
11 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
12 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
13 that support allegations, the response should merely state there are none.  
14 Otherwise the witnesses should be identified.

15 This objection by plaintiff is not a justification to refuse to provide a  
16 response to the Interrogatories.

17 **4. The Interrogatory Invades the Attorney Client Privilege and**  
18 **Attorney Work Product Doctrine**

19 Plaintiff objects that identifying witnesses and the facts within a witnesses  
20 knowledge that supports allegations that Mr. Blakeman acted in some manner  
21 invades the attorney client privilege. There is no legal support for withholding  
22 witnesses identities based on the attorney client privilege. Personal knowledge  
23 about facts are not privileged. "[T]he protection of the privilege extends only to  
24 communications and not to facts. A fact is one thing and a communication  
25 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
26 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

27 This objection by plaintiff is not a justification to refuse to provide a  
28 response to the Interrogatory.

1           **5. The Interrogatory is Premature as a Contention Interrogatory**

2           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
3 state of litigation and pre-trial discovery, responding party is unable to provide a  
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
5 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
6 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
7 2014) at \*1-2.; and FRCP Rule 33(a)(2).

8           While this is an argument that contention interrogatories can be delayed, the  
9 subject interrogatories do not fall into that context; the responding party is the  
10 party making the allegations, not the one responding to the allegations.

11          This action involves plaintiffs (bound by their own pleading) in their  
12 individual capacities, as well as representative capacities, alleging intentional torts,  
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
14 Blakeman which each of these plaintiffs make include accusation of involvement  
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,  
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
17 have some idea of the witnesses, documents or facts to support the allegations.  
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19          No substantive responses are provided. It is likely that no basis exists for  
20 these allegations against Mr. Blakeman; he is entitled to know the basis before  
21 facing a deposition by ambush.

22          Plaintiffs’ refusal is fatally flawed in any event. The cases cited are  
23 inapposite.

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1        *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
2 asking contention interrogatories to a shareholder plaintiff early in litigation  
3 required more time for the litigation to develop. Such is not the case with the  
4 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
5 people and make specific allegations against Mr. Blakeman for which (if pled  
6 honestly) Plaintiffs alone have the supporting facts.

7        *Folz* related to contention interrogatories on defendant's affirmative  
8 defenses; something that clearly would involve significantly more discovery to  
9 develop than is the situation here where defendant is simply seeking information  
10 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
11 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
12 committed some act. This information will allow Mr. Blakeman to depose such  
13 persons and to have a "just, speedy, and inexpensive determination [in this ]  
14 action." (FRCP Rule 1.)

15        The identification of witnesses is important not only to Mr. Blakeman's  
16 defense but also because they would contribute meaningfully to narrow the scope  
17 of the issues in dispute, set up early settlement discussions, and expose the  
18 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
19 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
20 are important in assessing whether it would be appropriate for the early use of  
21 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,  
22 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
23 Rule 56 motions as there appears to be no evidence supporting the causes of action  
24 against him. It also appears that there is a lack of evidence to even support  
25 probable cause to pursue an action against him and a Rule 11 motion is likewise  
26 being considered. The discovery is thus also intended to ferret out what appears to  
27 be baseless character assassination.

28        *In re Convergent Technologies Securities Litigation* recognized the

1 importance of the identification of witnesses as a type of contention interrogatory  
2 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
3 frame work it provides related to contention interrogatories, also noted that the  
4 frame work does not apply to the identity of witnesses with knowledge of the facts  
5 giving rise to the litigation or documents supporting material factual allegations.  
6 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
7 litigation. (Id. 108 F.R.D. at 332-333).

8 The *In re Convergent Technologies Securities Litigation* frame work to be  
9 applied to contention interrogatories has been examined in the Central District of  
10 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
11 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
12 explicated the evolution of the analysis of when contention interrogatories were  
13 appropriate.

14 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
15 the Federal Rules of Civil Procedure.

16 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
17 construed to secure the just, speedy, and inexpensive determination of every  
18 action.” “There probably is no provision in the federal rules that is more important  
19 than this mandate. It reflects the spirit in which the rules were conceived and  
20 written, and in which they should be, and by and large have been, interpreted.....  
21 The Supreme Court of the United States has stated that these rules ‘are to be  
22 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
23 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
24 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85  
25 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*  
26 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

27 Judge Chapman allayed concerns about early use of contention  
28 interrogatories and recognized that contention interrogatories are allowed under the

1 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
2 limited answers to interrogatories is not well-founded because such answers may  
3 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
4 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

5 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
6 *Technologies Securities Litigation*, had recently even acknowledged the  
7 importance of early use of contention interrogatories in certain matters:

8 *In Convergent Technologies*, Judge Wayne D. Brazil, in a  
9 very thoughtful opinion, held that the 1983 amendments to  
10 Fed.R.Civ.P. 26(b) compelled his conclusion that the  
11 “wisest course is not to preclude entirely the early use of  
12 contention interrogatories, but to place a burden of  
13 justification on the party who seeks answers to these kinds  
14 of questions before substantial documentary or testimonial  
15 discovery has been completed.... [T]he propounding party  
16 must present specific, plausible grounds for believing that  
17 securing early answers to its contention questions will  
18 materially advance the goals of the Federal Rules of Civil  
19 Procedure.” 108 F.R.D. at 338–39. More recently,  
20 however, Judge Brazil has modified his position, noting  
21 that contention interrogatories may in certain cases be the  
22 most reliable and cost-effective discovery device, which  
23 would be less burdensome than depositions at which  
24 contention questions are propounded. See *McCormick–*  
*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
287 (N.D.Cal.1991) (holding appropriately framed and  
25 timed contention interrogatories rather than depositions in  
26 patent infringement action was most appropriate vehicle  
27 for establishing infringers' contentions). *Cable &*  
*Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
28 F.R.D. 646, 651–52 (C.D. Cal. 1997).

29 In fact Judge Chapman, instead of placing the burden on the party  
30 propounding the request in justifying the need for early discovery on such issues,  
31 found placing the burden on the party opposing responding to the request, as is

1 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

2 In this case, though, the requests made by Blakeman are appropriate no  
3 matter what analysis is applied to his alleged “contention interrogatories.” The  
4 requests seek to identify witnesses. If Blakeman has the burden to show this is  
5 necessary he easily meets it as there is no way he can potentially defend his case,  
6 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
7 witnesses who supposedly support the allegations he is in a gang, that he commits  
8 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
9 Alternatively, plaintiffs cannot show that they could even meet their burden in  
10 resisting disclosure of this information.

11 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
12 violations of the Bane act) without having some witness to such acts by Mr.  
13 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
14 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
15 unspecified knowledge about Blakeman.

16 Surely Mr. Blakeman, who is accused of such things, and has timely  
17 requested supporting information for these very specific allegations, should have  
18 the opportunity to know about and to depose the witnesses who allegedly support  
19 such allegations. Surely if no such persons exist then the lack of such evidence  
20 must be exposed. Failing to indicate whether such evidence exists or does not  
21 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
22 Procedure.

23 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

24 **Plaintiffs' Contention**

25 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
26 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
27 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
28 responses when they "learn[] that in some material respect the disclosure or

1 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
2 Defendant Blakeman is in control of much of the information needed to respond to  
3 his contention interrogatories but, to date, has refused to produce any documents or  
4 videos in response to Plaintiffs' discovery requests and in violation of his  
5 obligations under Federal Rule 26(a).

6 1. Unduly Burdensome, Harassing, and Duplicative

7 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
8 claims against Blakeman on the grounds that they already disclosed the names of  
9 potential witnesses in their initial and supplemental disclosures. Specifically,  
10 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
11 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

12 Mr. Blakeman already has the list of potential witnesses in his possession.  
13 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
14 to be compelled to identify these witnesses again.

15 2. Compound

16 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
17 knowledge of facts supporting their contentions and facts within each person's  
18 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
19 a party to 25 interrogatories propounded on any other party, including all discrete  
20 subparts.

21 Courts have consistently concluded that an interrogatory that asks a party to  
22 identify facts, documents, and witnesses should count as separate interrogatories.  
23 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
24 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,  
25 documents, and witnesses,] and these subparts must be multiplied by the number of  
26 RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger,*  
27 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
28 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.

1 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

2 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
3 containing multiple impermissible subparts is wholly improper and therefore  
4 Plaintiffs' objection on this ground was appropriate.

5 3. Information Outside Plaintiff's Knowledge

6 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
7 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
8 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
9 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
10 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
11 To the extent Plaintiffs identify additional witnesses who support their claims  
12 throughout the course of discovery in this matter, Plaintiffs are aware of their  
13 obligation under the Federal Rules to timely supplement their discovery and  
14 disclosures.

15 Plaintiffs' objection on the grounds that the interrogatories seek information  
16 outside their knowledge is an objection *only to the extent* that the information  
17 sought is outside the individually-responding Plaintiff's knowledge. Although  
18 Plaintiffs neglected to include the words "to the extent that" preceding these  
19 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
20 their objections to include this wording, if the Court so orders.

21 4. Attorney-Client Privilege and Attorney Work Product Doctrine

22 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
23 attorney-client privilege and/or the work product doctrine by compelling privileged  
24 communication and/or litigation strategy. These objections are worded such that  
25 either the attorney-client privilege or the attorney work product doctrine (or both)  
26 could protect the information from disclosure. The objections do not state that  
27 both privileges necessarily apply to each piece of information sought.

28 Furthermore, Plaintiffs do not claim that all information sought is privileged,



1 as evidenced by the inclusion of "to the extent that" preceding these objections.  
2 Rather, Plaintiffs have applied the work product doctrine to protect trial  
3 preparation materials that reveal attorney strategy, intended lines of proof,  
4 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
5 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
6 Plaintiffs have applied the attorney-client privilege to protect confidential  
7 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
8 (9th Cir. 2010).

9       5.       Premature Contention Interrogatories

10       Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
11 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
12 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
13 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
14 2014) at \*1-2. This objection was proper.

15       Contention interrogatories need not be answered until discovery is  
16 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
17 that discovery was not "substantially complete" when the discovery cutoff was 4  
18 months away and depositions of fact witnesses or defendants had not yet occurred.  
19 The court opined that "[i]f Defendants had completed their document production,  
20 depositions were under way, and the discovery cutoff date was just a month or so  
21 away, Defendants *might* be entitled to the information they seek. But under the  
22 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
23 (emphasis added).

24       Similarly, the *Folz* court found that discovery was not substantially complete  
25 and the responding party had adequate time to supplement his answers when the  
26 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
27 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
28 2011), held that the responding party did not need to respond to contention



1 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

2 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
3 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
4 have produced any documents despite Plaintiffs' requests for production, and  
5 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
6 2016. Additionally, the parties have only taken 6 out of the 20 possible  
7 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
8 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
9 month. Thus, it is clear that the parties are in the early stages of discovery.  
10 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
11 respond to Defendant Blakeman's premature contention interrogatories.

12 2. IDENTIFY ALL PERSONS that have knowledge of any facts that  
13 support your contention in paragraph 7 of the Complaint that BRANT  
14 BLAKEMAN "is responsible in some manner for the Bane Act violations and  
15 public nuisance described in the Complaint" and for each such PERSON identified  
16 state all facts you contend are within that PERSON's knowledge.

17 **Plaintiffs' Response to Interrogatory #2**

18 Responding party objects to this interrogatory as unduly burdensome,  
19 harassing, and duplicative of information disclosed in Responding Party's Rule  
20 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
21 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
22 information sought by this interrogatory. Moreover, Responding Party had the  
23 opportunity to depose Mr. Spencer on this topic.

24 Responding party further objects to this interrogatory as compound. This  
25 "interrogatory" contains multiple impermissible subparts, which Propounding  
26 Party has propounded in an effort to circumvent the numerical limitations on  
27 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

28 Responding Party further objects to this interrogatory on the grounds that it

1 seeks information that is outside of Responding Party's knowledge.

2 Responding Party further objects to the extent that this interrogatory invades  
3 attorney-client privilege and/or violates the work product doctrine by compelling  
4 Responding Party to disclose privileged communications and/or litigation strategy.  
5 Responding Party will not provide any such information.

6 Responding Party further objects to this interrogatory as premature. Because  
7 this interrogatory seeks or necessarily relies upon a contention, and because this  
8 matter is in its early stages and pretrial discovery has only just begun, Responding  
9 Party is unable to provide a complete response at this time, nor is it required to do  
10 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
11 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
12 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
13 order that [a contention] interrogatory need not be answered until designated  
14 discovery is complete, or until a pretrial conference or some other time.").

15 Based on the foregoing objections, Responding Party will not respond to this  
16 interrogatory at this time.

17 **Defendant Brant Blakeman's Contention**

18 The Interrogatory seeks witness information pertaining to any and all  
19 persons who plaintiffs claim support a specific contention made against Brant  
20 Blakeman in his personal capacity, not as a member of a group but as an  
21 individual.

22 The interrogatories at issue merely seek the identification of witnesses and  
23 the identification of the facts believed to be within those witnesses knowledge  
24 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
25 personal capacity.

26 The discovery requests defined "BRANT BLAKEMAN" as follows:

27 BRANT BLAKEMAN means only Brant Blakeman in his  
28 individual capacity. This definition expressly excludes

1 Brant Blakeman as an alleged member of what plaintiff  
2 alleges are the "Lunada Bay Boys." This definition  
3 expressly excludes the actions or omissions of any other  
4 PERSON other than Brant Blakeman in his individual  
5 capacity. This definition expressly excludes acts of  
6 PERSONS other than Brant Blakeman that plaintiff  
7 attributes to Brant Blakeman under a theory of Civil  
8 Conspiracy.

9 Failure to produce the information sought by the Interrogatory is intended  
10 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
11 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
12 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
13 against him.

14 The response offers only uniform boilerplate objections. Based on those  
15 objections, the response asserts that no answers to the requests will be provided.  
16 Because the objections are unmeritorious, a further, substantive response must be  
17 compelled.

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19 Plaintiff contends that identifying the witnesses to the claims against Mr.  
20 Blakeman is unduly burdensome and harassing and the information can be found  
21 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
22 identify only one witness with potential knowledge concerning Mr. Blakeman,  
23 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
24 presented by this Interrogatory, then it certainly strains reason that answering it is  
25 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
26 did some act those witnesses likewise should be identified.

27 This objection by plaintiff is not a justification to refuse to provide a  
28 response to the interrogatory.

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1           **2. The Interrogatory is Compound and has Subparts**

2           Plaintiff contends the Interrogatory is designed to circumvent the numerical  
3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
4 The Interrogatory seeks the identification of a witness and the facts within that  
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7 their knowledge are considered one interrogatory. (See *Chapman v. California*  
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9 mathematical exercise, even were one to entertain the contention that the  
10 Interrogatory did not contain discrete subparts, there are only two: 12  
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
12 Rule 33 which allows for 25 interrogatories.

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14 response to the Interrogatory.

15           **3. The Interrogatory Seeks Information that is Outside of**  
16           **Responding Party's Knowledge**

17           Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
18 knowledge. This objection either wholly lacks merit or there are very troubling  
19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

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21 personal knowledge of witnesses who will support the allegations (including the  
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
25 that support allegations, the response should merely state there are none.  
26 Otherwise the witnesses should be identified.

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28 response to the Interrogatories.

1           **4. The Interrogatory Invades the Attorney Client Privilege and**  
2           **Attorney Work Product Doctrine**

3           Plaintiff objects that identifying witnesses and the facts within a witnesses  
4 knowledge that supports allegations that Mr. Blakeman acted in some manner  
5 invades the attorney client privilege. There is no legal support for withholding  
6 witnesses identities based on the attorney client privilege. Personal knowledge  
7 about facts are not privileged. "[T]he protection of the privilege extends only to  
8 communications and not to facts. A fact is one thing and a communication  
9 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
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11           This objection by plaintiff is not a justification to refuse to provide a  
12 response to the Interrogatory.

13           **5. The Interrogatory is Premature as a Contention Interrogatory**

14           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
15 state of litigation and pre-trial discovery, responding party is unable to provide a  
16 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
17 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
18 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
19 2014) at \*1-2.; and FRCP Rule 33(a)(2).

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21 subject interrogatories do not fall into that context; the responding party is the  
22 party making the allegations, not the one responding to the allegations.

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26 Blakeman which each of these plaintiffs make include accusation of involvement  
27 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
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1 have some idea of the witnesses, documents or facts to support the allegations.  
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3 No substantive responses are provided. It is likely that no basis exists for  
4 these allegations against Mr. Blakeman; he is entitled to know the basis before  
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16 develop than is the situation here where defendant is simply seeking information  
17 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
18 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
19 committed some act. This information will allow Mr. Blakeman to depose such  
20 persons and to have a "just, speedy, and inexpensive determination [in this ]  
21 action." (FRCP Rule 1.)

22 The identification of witnesses is important not only to Mr. Blakeman's  
23 defense but also because they would contribute meaningfully to narrow the scope  
24 of the issues in dispute, set up early settlement discussions, and expose the  
25 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
26 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
27 are important in assessing whether it would be appropriate for the early use of  
28 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

1 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
2 Rule 56 motions as there appears to be no evidence supporting the causes of action  
3 against him. It also appears that there is a lack of evidence to even support  
4 probable cause to pursue an action against him and a Rule 11 motion is likewise  
5 being considered. The discovery is thus also intended to ferret out what appears to  
6 be baseless character assassination.

7 *In re Convergent Technologies Securities Litigation* recognized the  
8 importance of the identification of witnesses as a type of contention interrogatory  
9 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
10 frame work it provides related to contention interrogatories, also noted that the  
11 frame work does not apply to the identity of witnesses with knowledge of the facts  
12 giving rise to the litigation or documents supporting material factual allegations.  
13 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
14 litigation. (Id. 108 F.R.D. at 332-333).

15 The *In re Convergent Technologies Securities Litigation* frame work to be  
16 applied to contention interrogatories has been examined in the Central District of  
17 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
18 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
19 explicated the evolution of the analysis of when contention interrogatories were  
20 appropriate.

21 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
22 the Federal Rules of Civil Procedure.

23 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
24 construed to secure the just, speedy, and inexpensive determination of every  
25 action.” “There probably is no provision in the federal rules that is more important  
26 than this mandate. It reflects the spirit in which the rules were conceived and  
27 written, and in which they should be, and by and large have been, interpreted.....  
28 The Supreme Court of the United States has stated that these rules ‘are to be



1 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
2 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
3 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85  
4 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*  
5 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

6 Judge Chapman allayed concerns about early use of contention  
7 interrogatories and recognized that contention interrogatories are allowed under the  
8 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
9 limited answers to interrogatories is not well-founded because such answers may  
10 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
11 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

12 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
13 *Technologies Securities Litigation*, had recently even acknowledged the  
14 importance of early use of contention interrogatories in certain matters:

15 *In Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful  
16 opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his  
17 conclusion that the “wisest course is not to preclude entirely the early use of  
18 contention interrogatories, but to place a burden of justification on the party who  
19 seeks answers to these kinds of questions before substantial documentary or  
20 testimonial discovery has been completed.... [T]he propounding party must present  
21 specific, plausible grounds for believing that securing early answers to its  
22 contention questions will materially advance the goals of the Federal Rules of Civil  
23 Procedure.” 108 F.R.D. at 338–39. More recently, however, Judge Brazil has  
24 modified his position, noting that contention interrogatories may in certain cases be  
25 the most reliable and cost-effective discovery device, which would be less  
26 burdensome than depositions at which contention questions are propounded. See  
27 *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287  
28 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories

1 rather than depositions in patent infringement action was most appropriate vehicle  
2 for establishing infringers' contentions). *Cable & Computer Tech., Inc. v.*  
3 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

4 In fact Judge Chapman, instead of placing the burden on the party  
5 propounding the request in justifying the need for early discovery on such issues,  
6 found placing the burden on the party opposing responding to the request, as is  
7 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

8 In this case, though, the requests made by Blakeman are appropriate no  
9 matter what analysis is applied to his alleged “contention interrogatories.” The  
10 requests seek to identify witnesses. If Blakeman has the burden to show this is  
11 necessary he easily meets it as there is no way he can potentially defend his case,  
12 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
13 witnesses who supposedly support the allegations he is in a gang, that he commits  
14 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
15 Alternatively, plaintiffs cannot show that they could even meet their burden in  
16 resisting disclosure of this information.

17 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
18 violations of the Bane act) without having some witness to such acts by Mr.  
19 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
20 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
21 unspecified knowledge about Blakeman.

22 Surely Mr. Blakeman, who is accused of such things, and has timely  
23 requested supporting information for these very specific allegations, should have  
24 the opportunity to know about and to depose the witnesses who allegedly support  
25 such allegations. Surely if no such persons exist then the lack of such evidence  
26 must be exposed. Failing to indicate whether such evidence exists or does not  
27 exist only serves to thwart the truth and the spirit of the Federal Rules of Civil  
28 Procedure.

1 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

2 **Plaintiffs' Contention**

3 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
4 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
5 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
6 responses when they "learn[] that in some material respect the disclosure or  
7 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
8 Defendant Blakeman is in control of much of the information needed to respond to  
9 his contention interrogatories but, to date, has refused to produce any documents or  
10 videos in response to Plaintiffs' discovery requests and in violation of his  
11 obligations under Federal Rule 26(a).

12 1. **Unduly Burdensome, Harassing, and Duplicative**

13 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
14 claims against Blakeman on the grounds that they already disclosed the names of  
15 potential witnesses in their initial and supplemental disclosures. Specifically,  
16 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
17 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

18 Mr. Blakeman already has the list of potential witnesses in his possession.  
19 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
20 to be compelled to identify these witnesses again.

21 2. **Compound**

22 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
23 knowledge of facts supporting their contentions and facts within each person's  
24 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
25 a party to 25 interrogatories propounded on any other party, including all discrete  
26 subparts.

27 Courts have consistently concluded that an interrogatory that asks a party to  
28 identify facts, documents, and witnesses should count as separate interrogatories.

1 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
2 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
3 documents, and witnesses,] and these subparts must be multiplied by the number of  
4 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
5 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
6 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
7 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

8 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
9 containing multiple impermissible subparts is wholly improper and therefore  
10 Plaintiffs' objection on this ground was appropriate.

11 3. Information Outside Plaintiff's Knowledge

12 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
13 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
14 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
15 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
16 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
17 To the extent Plaintiffs identify additional witnesses who support their claims  
18 throughout the course of discovery in this matter, Plaintiffs are aware of their  
19 obligation under the Federal Rules to timely supplement their discovery and  
20 disclosures.

21 Plaintiffs' objection on the grounds that the interrogatories seek information  
22 outside their knowledge is an objection *only to the extent* that the information  
23 sought is outside the individually-responding Plaintiff's knowledge. Although  
24 Plaintiffs neglected to include the words "to the extent that" preceding these  
25 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
26 their objections to include this wording, if the Court so orders.

27 4. Attorney-Client Privilege and Attorney Work Product Doctrine

28 Plaintiffs objected to the interrogatories *to the extent that* they invade the

1 attorney-client privilege and/or the work product doctrine by compelling privileged  
2 communication and/or litigation strategy. These objections are worded such that  
3 either the attorney-client privilege or the attorney work product doctrine (or both)  
4 could protect the information from disclosure. The objections do not state that  
5 both privileges necessarily apply to each piece of information sought.

6 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
7 as evidenced by the inclusion of "to the extent that" preceding these objections.  
8 Rather, Plaintiffs have applied the work product doctrine to protect trial  
9 preparation materials that reveal attorney strategy, intended lines of proof,  
10 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
11 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
12 Plaintiffs have applied the attorney-client privilege to protect confidential  
13 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
14 (9th Cir. 2010).

15 5. Premature Contention Interrogatories

16 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
17 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
18 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
19 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
20 2014) at \*1-2. This objection was proper.

21 Contention interrogatories need not be answered until discovery is  
22 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
23 that discovery was not "substantially complete" when the discovery cutoff was 4  
24 months away and depositions of fact witnesses or defendants had not yet occurred.  
25 The court opined that "[i]f Defendants had completed their document production,  
26 depositions were under way, and the discovery cutoff date was just a month or so  
27 away, Defendants *might* be entitled to the information they seek. But under the  
28 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1

1 (emphasis added).

2 Similarly, the *Folz* court found that discovery was not substantially complete  
3 and the responding party had adequate time to supplement his answers when the  
4 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
5 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
6 2011), held that the responding party did not need to respond to contention  
7 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

8 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
9 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
10 have produced any documents despite Plaintiffs' requests for production, and  
11 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
12 2016. Additionally, the parties have only taken 6 out of the 20 possible  
13 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
14 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
15 month. Thus, it is clear that the parties are in the early stages of discovery.  
16 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
17 respond to Defendant Blakeman's premature contention interrogatories.

18 3. IDENTIFY ALL PERSONS that have knowledge of any facts that  
19 support your contention in paragraph 18 of the Complaint that BRANT  
20 BLAKEMAN "sell[s] market[s] and use[s] illegal controlled substances from the  
21 Lunada Bay Bluffs and the Rock Fort" and for each such PERSON identified state  
22 all facts you contend are within that PERSON's knowledge.

23 **Plaintiffs' Response to Interrogatory #3**

24 Responding party objects to this interrogatory as unduly burdensome,  
25 harassing, and duplicative of information disclosed in Responding Party's Rule  
26 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
27 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
28 information sought by this interrogatory. Moreover, Responding Party had the



1 opportunity to depose Mr. Spencer on this topic.

2 Responding party further objects to this interrogatory as compound. This  
3 “interrogatory” contains multiple impermissible subparts, which Propounding  
4 Party has propounded in an effort to circumvent the numerical limitations on  
5 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

6 Responding Party further objects to this interrogatory on the grounds that it  
7 seeks information that is outside of Responding Party’s knowledge.

8 Responding Party further objects to the extent that this interrogatory invades  
9 attorney-client privilege and/or violates the work product doctrine by compelling  
10 Responding Party to disclose privileged communications and/or litigation strategy.  
11 Responding Party will not provide any such information.

12 Responding Party further objects to this interrogatory as premature. Because  
13 this interrogatory seeks or necessarily relies upon a contention, and because this  
14 matter is in its early stages and pretrial discovery has only just begun, Responding  
15 Party is unable to provide a complete response at this time, nor is it required to do  
16 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
17 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
18 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may  
19 order that [a contention] interrogatory need not be answered until designated  
20 discovery is complete, or until a pretrial conference or some other time.”).

21 Based on the foregoing objections, Responding Party will not respond to this  
22 interrogatory at this time.

23 **Defendant Brant Blakeman’s Contention**

24 The Interrogatory seeks witness information pertaining to any and all  
25 persons who plaintiffs claim support a specific contention made against Brant  
26 Blakeman in his personal capacity, not as a member of a group but as an  
27 individual.

28 The interrogatories at issue merely seek the identification of witnesses and



1 the identification of the facts believed to be within those witnesses knowledge  
2 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
3 personal capacity.

4 The discovery requests defined "BRANT BLAKEMAN" as follows:

5 BRANT BLAKEMAN means only Brant Blakeman in his  
6 individual capacity. This definition expressly excludes  
7 Brant Blakeman as an alleged member of what plaintiff  
8 alleges are the "Lunada Bay Boys." This definition  
9 expressly excludes the actions or omissions of any other  
10 PERSON other than Brant Blakeman in his individual  
11 capacity. This definition expressly excludes acts of  
PERSONS other than Brant Blakeman that plaintiff  
attributes to Brant Blakeman under a theory of Civil  
Conspiracy.

12 Failure to produce the information sought by the Interrogatory is intended  
13 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
14 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
15 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
16 against him.

17 The response offers only uniform boilerplate objections. Based on those  
18 objections, the response asserts that no answers to the requests will be provided.  
19 Because the objections are unmeritorious, a further, substantive response must be  
20 compelled.

21 **1. Undue Burden, Harassment, and Duplication**

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18 **3. The Interrogatory Seeks Information that is Outside of**  
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20 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
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22 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

23 How is it that plaintiff can bring such egregious allegations without some  
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6 Plaintiff objects that identifying witnesses and the facts within a witnesses  
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25 party making the allegations, not the one responding to the allegations.

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1 Blakeman which each of these plaintiffs make include accusation of involvement  
2 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
3 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
4 have some idea of the witnesses, documents or facts to support the allegations.  
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22 committed some act. This information will allow Mr. Blakeman to depose such  
23 persons and to have a "just, speedy, and inexpensive determination [in this ]  
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26 defense but also because they would contribute meaningfully to narrow the scope  
27 of the issues in dispute, set up early settlement discussions, and expose the  
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6 against him. It also appears that there is a lack of evidence to even support  
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14 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

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16 *Technologies Securities Litigation*, had recently even acknowledged the  
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19 very thoughtful opinion, held that the 1983 amendments to  
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24 of questions before substantial documentary or testimonial  
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8 In fact Judge Chapman, instead of placing the burden on the party  
9 propounding the request in justifying the need for early discovery on such issues,  
10 found placing the burden on the party opposing responding to the request, as is  
11 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

12 In this case, though, the requests made by Blakeman are appropriate no  
13 matter what analysis is applied to his alleged “contention interrogatories.” The  
14 requests seek to identify witnesses. If Blakeman has the burden to show this is  
15 necessary he easily meets it as there is no way he can potentially defend his case,  
16 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
17 witnesses who supposedly support the allegations he is in a gang, that he commits  
18 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
19 Alternatively, plaintiffs cannot show that they could even meet their burden in  
20 resisting disclosure of this information.

21 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
22 violations of the Bane act) without having some witness to such acts by Mr.  
23 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
24 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
25 unspecified knowledge about Blakeman.

26 Surely Mr. Blakeman, who is accused of such things, and has timely  
27 requested supporting information for these very specific allegations, should have  
28 the opportunity to know about and to depose the witnesses who allegedly support



1 such allegations. Surely if no such persons exist then the lack of such evidence  
2 must be exposed. Failing to indicate whether such evidence exists or does not  
3 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
4 Procedure.

5 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

6 **Plaintiffs' Contention**

7 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
8 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
9 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
10 responses when they "learn[] that in some material respect the disclosure or  
11 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
12 Defendant Blakeman is in control of much of the information needed to respond to  
13 his contention interrogatories but, to date, has refused to produce any documents or  
14 videos in response to Plaintiffs' discovery requests and in violation of his  
15 obligations under Federal Rule 26(a).

16 1. **Unduly Burdensome, Harassing, and Duplicative**

17 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
18 claims against Blakeman on the grounds that they already disclosed the names of  
19 potential witnesses in their initial and supplemental disclosures. Specifically,  
20 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
21 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

22 Mr. Blakeman already has the list of potential witnesses in his possession.  
23 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
24 to be compelled to identify these witnesses again.

25 2. **Compound**

26 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
27 knowledge of facts supporting their contentions and facts within each person's  
28 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits

1 a party to 25 interrogatories propounded on any other party, including all discrete  
2 subparts.

3 Courts have consistently concluded that an interrogatory that asks a party to  
4 identify facts, documents, and witnesses should count as separate interrogatories.  
5 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
6 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
7 documents, and witnesses,] and these subparts must be multiplied by the number of  
8 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
9 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
10 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
11 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

12 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
13 containing multiple impermissible subparts is wholly improper and therefore  
14 Plaintiffs' objection on this ground was appropriate.

15 3. Information Outside Plaintiff's Knowledge

16 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
17 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
18 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
19 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
20 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
21 To the extent Plaintiffs identify additional witnesses who support their claims  
22 throughout the course of discovery in this matter, Plaintiffs are aware of their  
23 obligation under the Federal Rules to timely supplement their discovery and  
24 disclosures.

25 Plaintiffs' objection on the grounds that the interrogatories seek information  
26 outside their knowledge is an objection *only to the extent* that the information  
27 sought is outside the individually-responding Plaintiff's knowledge. Although  
28 Plaintiffs neglected to include the words "to the extent that" preceding these

1 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
2 their objections to include this wording, if the Court so orders.

3 4. Attorney-Client Privilege and Attorney Work Product Doctrine

4 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
5 attorney-client privilege and/or the work product doctrine by compelling privileged  
6 communication and/or litigation strategy. These objections are worded such that  
7 either the attorney-client privilege or the attorney work product doctrine (or both)  
8 could protect the information from disclosure. The objections do not state that  
9 both privileges necessarily apply to each piece of information sought.

10 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
11 as evidenced by the inclusion of "to the extent that" preceding these objections.  
12 Rather, Plaintiffs have applied the work product doctrine to protect trial  
13 preparation materials that reveal attorney strategy, intended lines of proof,  
14 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
15 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
16 Plaintiffs have applied the attorney-client privilege to protect confidential  
17 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
18 (9th Cir. 2010).

19 5. Premature Contention Interrogatories

20 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
21 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
22 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
23 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
24 2014) at \*1-2. This objection was proper.

25 Contention interrogatories need not be answered until discovery is  
26 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
27 that discovery was not "substantially complete" when the discovery cutoff was 4  
28 months away and depositions of fact witnesses or defendants had not yet occurred.

1 The court opined that "[i]f Defendants had completed their document production,  
2 depositions were under way, and the discovery cutoff date was just a month or so  
3 away, Defendants *might* be entitled to the information they seek. But under the  
4 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
5 (emphasis added).

6 Similarly, the *Folz* court found that discovery was not substantially complete  
7 and the responding party had adequate time to supplement his answers when the  
8 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
9 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
10 2011), held that the responding party did not need to respond to contention  
11 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

12 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
13 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
14 have produced any documents despite Plaintiffs' requests for production, and  
15 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
16 2016. Additionally, the parties have only taken 6 out of the 20 possible  
17 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
18 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
19 month. Thus, it is clear that the parties are in the early stages of discovery.  
20 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
21 respond to Defendant Blakeman's premature contention interrogatories.

22 4. IDENTIFY ALL PERSONS that have knowledge of any facts that  
23 support your contention in paragraph 18 of the Complaint that BLAKE  
24 BRANTMAN "impede[d] boat traffic" at any time, and for each such PERSON  
25 identified state all facts you contend are within that PERSON's knowledge.

26 **Plaintiffs' Response to Interrogatory #4**

27 Responding party objects to this interrogatory as unduly burdensome,  
28 harassing, and duplicative of information disclosed in Responding Party's Rule

1 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
2 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
3 information sought by this interrogatory. Moreover, Responding Party had the  
4 opportunity to depose Mr. Spencer on this topic.

5 Responding party further objects to this interrogatory as compound. This  
6 "interrogatory" contains multiple impermissible subparts, which Propounding  
7 Party has propounded in an effort to circumvent the numerical limitations on  
8 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

9 Responding Party further objects to this interrogatory on the grounds that it  
10 seeks information that is outside of Responding Party's knowledge.

11 Responding Party further objects to the extent that this interrogatory invades  
12 attorney-client privilege and/or violates the work product doctrine by compelling  
13 Responding Party to disclose privileged communications and/or litigation strategy.  
14 Responding Party will not provide any such information.

15 Responding Party further objects to this interrogatory as premature. Because  
16 this interrogatory seeks or necessarily relies upon a contention, and because this  
17 matter is in its early stages and pretrial discovery has only just begun, Responding  
18 Party is unable to provide a complete response at this time, nor is it required to do  
19 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
20 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
21 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
22 order that [a contention] interrogatory need not be answered until designated  
23 discovery is complete, or until a pretrial conference or some other time.").

24 Based on the foregoing objections, Responding Party will not respond to this  
25 interrogatory at this time.

26 **Defendant Brant Blakeman's Contention**

27 The Interrogatory seeks witness information pertaining to any and all  
28 persons who plaintiffs claim support a specific contention made against Brant

1 Blakeman in his personal capacity, not as a member of a group but as an  
2 individual.

3 The interrogatories at issue merely seek the identification of witnesses and  
4 the identification of the facts believed to be within those witnesses knowledge  
5 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
6 personal capacity.

7 The discovery requests defined "BRANT BLAKEMAN" as follows:

8 BRANT BLAKEMAN means only Brant Blakeman in his  
9 individual capacity. This definition expressly excludes  
10 Brant Blakeman as an alleged member of what plaintiff  
11 alleges are the "Lunada Bay Boys." This definition  
12 expressly excludes the actions or omissions of any other  
13 PERSON other than Brant Blakeman in his individual  
14 capacity. This definition expressly excludes acts of  
15 PERSONS other than Brant Blakeman that plaintiff  
16 attributes to Brant Blakeman under a theory of Civil  
17 Conspiracy.

18 Failure to produce the information sought by the Interrogatory is intended  
19 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
20 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
21 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
22 against him.

23 The response offers only uniform boilerplate objections. Based on those  
24 objections, the response asserts that no answers to the requests will be provided.  
25 Because the objections are unmeritorious, a further, substantive response must be  
26 compelled.

27 **1. Undue Burden, Harassment, and Duplication**

28 Plaintiff contends that identifying the witnesses to the claims against Mr.  
Blakeman is unduly burdensome and harassing and the information can be found  
in the initial and supplemental disclosures. Plaintiffs in their initial disclosure



1 identify only one witness with potential knowledge concerning Mr. Blakeman,  
2 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
3 presented by this Interrogatory, then it certainly strains reason that answering it is  
4 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
5 did some act those witnesses likewise should be identified.

6 This objection by plaintiff is not a justification to refuse to provide a  
7 response to the interrogatory.

8 **2. The Interrogatory is Compound and has Subparts**

9 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
10 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
11 The Interrogatory seeks the identification of a witness and the facts within that  
12 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
13 "discrete subparts." Seeking the identification of witnesses and the facts within  
14 their knowledge are considered one interrogatory. (See *Chapman v. California*  
15 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
16 mathematical exercise, even were one to entertain the contention that the  
17 Interrogatory did not contain discrete subparts, there are only two: 12  
18 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
19 Rule 33 which allows for 25 interrogatories.

20 This objection by plaintiff is not a justification to refuse to provide a  
21 response to the Interrogatory.

22 **3. The Interrogatory Seeks Information that is Outside of**  
23 **Responding Party's Knowledge**

24 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
25 knowledge. This objection either wholly lacks merit or there are very troubling  
26 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

27 How is it that plaintiff can bring such egregious allegations without some  
28 personal knowledge of witnesses who will support the allegations (including the



1 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
2 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
3 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
4 that support allegations, the response should merely state there are none.  
5 Otherwise the witnesses should be identified.

6 This objection by plaintiff is not a justification to refuse to provide a  
7 response to the Interrogatories.

8 **4. The Interrogatory Invades the Attorney Client Privilege and**  
9 **Attorney Work Product Doctrine**

10 Plaintiff objects that identifying witnesses and the facts within a witnesses  
11 knowledge that supports allegations that Mr. Blakeman acted in some manner  
12 invades the attorney client privilege. There is no legal support for withholding  
13 witnesses identities based on the attorney client privilege. Personal knowledge  
14 about facts are not privileged. "[T]he protection of the privilege extends only to  
15 communications and not to facts. A fact is one thing and a communication  
16 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
17 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

18 This objection by plaintiff is not a justification to refuse to provide a  
19 response to the Interrogatory.

20 **5. The Interrogatory is Premature as a Contention Interrogatory**

21 Plaintiff alleges the Interrogatory seeks a contention and due to the early  
22 state of litigation and pre-trial discovery, responding party is unable to provide a  
23 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
24 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
25 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
26 2014) at \*1-2.; and FRCP Rule 33(a)(2).

27 While this is an argument that contention interrogatories can be delayed, the  
28 subject interrogatories do not fall into that context; the responding party is the

1 party making the allegations, not the one responding to the allegations.

2 This action involves plaintiffs (bound by their own pleading) in their  
3 individual capacities, as well as representative capacities, alleging intentional torts,  
4 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
5 Blakeman which each of these plaintiffs make include accusation of involvement  
6 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
7 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
8 have some idea of the witnesses, documents or facts to support the allegations.  
9 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

10 No substantive responses are provided. It is likely that no basis exists for  
11 these allegations against Mr. Blakeman; he is entitled to know the basis before  
12 facing a deposition by ambush.

13 Plaintiffs' refusal is fatally flawed in any event. The cases cited are  
14 inapposite.

15 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
16 asking contention interrogatories to a shareholder plaintiff early in litigation  
17 required more time for the litigation to develop. Such is not the case with the  
18 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
19 people and make specific allegations against Mr. Blakeman for which (if pled  
20 honestly) Plaintiffs alone have the supporting facts.

21 *Folz* related to contention interrogatories on defendant's affirmative  
22 defenses; something that clearly would involve significantly more discovery to  
23 develop than is the situation here where defendant is simply seeking information  
24 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
25 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
26 committed some act. This information will allow Mr. Blakeman to depose such  
27 persons and to have a "just, speedy, and inexpensive determination [in this ]  
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21 matter what analysis is applied to his alleged “contention interrogatories.” The  
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23 necessary he easily meets it as there is no way he can potentially defend his case,  
24 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
25 witnesses who supposedly support the allegations he is in a gang, that he commits  
26 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
27 Alternatively, plaintiffs cannot show that they could even meet their burden in  
28 resisting disclosure of this information.

How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
violations of the Bane act) without having some witness to such acts by Mr.  
Blakeman let alone a witness who is a victim of such acts. This is compounded by  
the Plaintiffs’ initial disclosures that list only one witness who has some vague

1 unspecified knowledge about Blakeman.

2 Surely Mr. Blakeman, who is accused of such things, and has timely  
3 requested supporting information for these very specific allegations, should have  
4 the opportunity to know about and to depose the witnesses who allegedly support  
5 such allegations. Surely if no such persons exist then the lack of such evidence  
6 must be exposed. Failing to indicate whether such evidence exists or does not  
7 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
8 Procedure.

9 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

10 **Plaintiffs' Contention**

11 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
12 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
13 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
14 responses when they "learn[] that in some material respect the disclosure or  
15 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
16 Defendant Blakeman is in control of much of the information needed to respond to  
17 his contention interrogatories but, to date, has refused to produce any documents or  
18 videos in response to Plaintiffs' discovery requests and in violation of his  
19 obligations under Federal Rule 26(a).

20 1. **Unduly Burdensome, Harassing, and Duplicative**

21 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
22 claims against Blakeman on the grounds that they already disclosed the names of  
23 potential witnesses in their initial and supplemental disclosures. Specifically,  
24 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
25 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

26 Mr. Blakeman already has the list of potential witnesses in his possession.  
27 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
28 to be compelled to identify these witnesses again.



1           2.     Compound

2           Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
3 knowledge of facts supporting their contentions and facts within each person's  
4 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
5 a party to 25 interrogatories propounded on any other party, including all discrete  
6 subparts.

7           Courts have consistently concluded that an interrogatory that asks a party to  
8 identify facts, documents, and witnesses should count as separate interrogatories.  
9 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
10 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
11 documents, and witnesses,] and these subparts must be multiplied by the number of  
12 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
13 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
14 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
15 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

16           Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
17 containing multiple impermissible subparts is wholly improper and therefore  
18 Plaintiffs' objection on this ground was appropriate.

19           3.     Information Outside Plaintiff's Knowledge

20           Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
21 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
22 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
23 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
24 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
25 To the extent Plaintiffs identify additional witnesses who support their claims  
26 throughout the course of discovery in this matter, Plaintiffs are aware of their  
27 obligation under the Federal Rules to timely supplement their discovery and  
28 disclosures.



1 Plaintiffs' objection on the grounds that the interrogatories seek information  
2 outside their knowledge is an objection *only to the extent* that the information  
3 sought is outside the individually-responding Plaintiff's knowledge. Although  
4 Plaintiffs neglected to include the words "to the extent that" preceding these  
5 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
6 their objections to include this wording, if the Court so orders.

7 4. Attorney-Client Privilege and Attorney Work Product Doctrine

8 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
9 attorney-client privilege and/or the work product doctrine by compelling privileged  
10 communication and/or litigation strategy. These objections are worded such that  
11 either the attorney-client privilege or the attorney work product doctrine (or both)  
12 could protect the information from disclosure. The objections do not state that  
13 both privileges necessarily apply to each piece of information sought.

14 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
15 as evidenced by the inclusion of "to the extent that" preceding these objections.  
16 Rather, Plaintiffs have applied the work product doctrine to protect trial  
17 preparation materials that reveal attorney strategy, intended lines of proof,  
18 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
19 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
20 Plaintiffs have applied the attorney-client privilege to protect confidential  
21 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
22 (9th Cir. 2010).

23 5. Premature Contention Interrogatories

24 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
25 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
26 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
27 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
28 2014) at \*1-2. This objection was proper.

1           Contention interrogatories need not be answered until discovery is  
2 “substantially complete.” See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
3 that discovery was not “substantially complete” when the discovery cutoff was 4  
4 months away and depositions of fact witnesses or defendants had not yet occurred.  
5 The court opined that “[i]f Defendants had completed their document production,  
6 depositions were under way, and the discovery cutoff date was just a month or so  
7 away, Defendants *might* be entitled to the information they seek. But under the  
8 circumstances here, Defendants’ interrogatories are premature.” *Kmiec*, at \*1  
9 (emphasis added).

10           Similarly, the *Folz* court found that discovery was not substantially complete  
11 and the responding party had adequate time to supplement his answers when the  
12 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
14 2011), held that the responding party did not need to respond to contention  
15 interrogatories because discovery was “still in full-swing.” *HTC Corp.*, at \*3.

16           In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
18 have produced any documents despite Plaintiffs’ requests for production, and  
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
20 2016. Additionally, the parties have only taken 6 out of the 20 possible  
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
23 month. Thus, it is clear that the parties are in the early stages of discovery.  
24 Discovery is far from being “substantially complete”; therefore, Plaintiffs need not  
25 respond to Defendant Blakeman’s premature contention interrogatories.

26           5. IDENTIFY ALL PERSONS that have knowledge of any facts that  
27 support your contention in paragraph 18 of the Complaint that BLAKE  
28 BRANTMAN “dangerously disregard[ed] surfing rules” at any time, and for each

1 such PERSON identified state all facts you contend are within that PERSON's  
2 knowledge.

3 **Plaintiffs' Response to Interrogatory #5**

4 Responding party objects to this interrogatory as unduly burdensome,  
5 harassing, and duplicative of information disclosed in Responding Party's Rule  
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
8 information sought by this interrogatory. Moreover, Responding Party had the  
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This  
11 "interrogatory" contains multiple impermissible subparts, which Propounding  
12 Party has propounded in an effort to circumvent the numerical limitations on  
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it  
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades  
17 attorney-client privilege and/or violates the work product doctrine by compelling  
18 Responding Party to disclose privileged communications and/or litigation strategy.  
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because  
21 this interrogatory seeks or necessarily relies upon a contention, and because this  
22 matter is in its early stages and pretrial discovery has only just begun, Responding  
23 Party is unable to provide a complete response at this time, nor is it required to do  
24 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
25 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
26 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
27 order that [a contention] interrogatory need not be answered until designated  
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this  
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all  
5 persons who plaintiffs claim support a specific contention made against Brant  
6 Blakeman in his personal capacity, not as a member of a group but as an  
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and  
9 the identification of the facts believed to be within those witnesses knowledge  
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his  
14 individual capacity. This definition expressly excludes  
15 Brant Blakeman as an alleged member of what plaintiff  
16 alleges are the "Lunada Bay Boys." This definition  
17 expressly excludes the actions or omissions of any other  
18 PERSON other than Brant Blakeman in his individual  
19 capacity. This definition expressly excludes acts of  
20 PERSONS other than Brant Blakeman that plaintiff  
21 attributes to Brant Blakeman under a theory of Civil  
22 Conspiracy.

23 Failure to produce the information sought by the Interrogatory is intended  
24 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
25 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
26 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
27 against him.

28 The response offers only uniform boilerplate objections. Based on those  
objections, the response asserts that no answers to the requests will be provided.  
Because the objections are unmeritorious, a further, substantive response must be

1 compelled.

2 **1. Undue Burden, Harassment, and Duplication**

3 Plaintiff contends that identifying the witnesses to the claims against Mr.  
4 Blakeman is unduly burdensome and harassing and the information can be found  
5 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
6 identify only one witness with potential knowledge concerning Mr. Blakeman,  
7 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
8 presented by this Interrogatory, then it certainly strains reason that answering it is  
9 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
10 did some act those witnesses likewise should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a  
12 response to the interrogatory.

13 **2. The Interrogatory is Compound and has Subparts**

14 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
15 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
16 The Interrogatory seeks the identification of a witness and the facts within that  
17 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
18 "discrete subparts." Seeking the identification of witnesses and the facts within  
19 their knowledge are considered one interrogatory. (See *Chapman v. California*  
20 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
21 mathematical exercise, even were one to entertain the contention that the  
22 Interrogatory did not contain discrete subparts, there are only two: 12  
23 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
24 Rule 33 which allows for 25 interrogatories.

25 This objection by plaintiff is not a justification to refuse to provide a  
26 response to the Interrogatory.

27 **3. The Interrogatory Seeks Information that is Outside of**  
28 **Responding Party's Knowledge**

1 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
2 knowledge. This objection either wholly lacks merit or there are very troubling  
3 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

4 How is it that plaintiff can bring such egregious allegations without some  
5 personal knowledge of witnesses who will support the allegations (including the  
6 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
7 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
8 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
9 that support allegations, the response should merely state there are none.  
10 Otherwise the witnesses should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a  
12 response to the Interrogatories.

13 **4. The Interrogatory Invades the Attorney Client Privilege and**  
14 **Attorney Work Product Doctrine**

15 Plaintiff objects that identifying witnesses and the facts within a witnesses  
16 knowledge that supports allegations that Mr. Blakeman acted in some manner  
17 invades the attorney client privilege. There is no legal support for withholding  
18 witnesses identities based on the attorney client privilege. Personal knowledge  
19 about facts are not privileged. "[T]he protection of the privilege extends only to  
20 communications and not to facts. A fact is one thing and a communication  
21 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
22 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

23 This objection by plaintiff is not a justification to refuse to provide a  
24 response to the Interrogatory.

25 **5. The Interrogatory is Premature as a Contention Interrogatory**

26 Plaintiff alleges the Interrogatory seeks a contention and due to the early  
27 state of litigation and pre-trial discovery, responding party is unable to provide a  
28 complete response and, in any event, it is required to so; citing to *Kmiec v.*

1 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
2 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
3 2014) at \*1-2.; and FRCP Rule 33(a)(2).

4 While this is an argument that contention interrogatories can be delayed, the  
5 subject interrogatories do not fall into that context; the responding party is the  
6 party making the allegations, not the one responding to the allegations.

7 This action involves plaintiffs (bound by their own pleading) in their  
8 individual capacities, as well as representative capacities, alleging intentional torts,  
9 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
10 Blakeman which each of these plaintiffs make include accusation of involvement  
11 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,  
12 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
13 have some idea of the witnesses, documents or facts to support the allegations.  
14 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

15 No substantive responses are provided. It is likely that no basis exists for  
16 these allegations against Mr. Blakeman; he is entitled to know the basis before  
17 facing a deposition by ambush.

18 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are  
19 inapposite.

20 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
21 asking contention interrogatories to a shareholder plaintiff early in litigation  
22 required more time for the litigation to develop. Such is not the case with the  
23 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
24 people and make specific allegations against Mr. Blakeman for which (if pled  
25 honestly) Plaintiffs alone have the supporting facts.

26 *Folz* related to contention interrogatories on defendant's affirmative  
27 defenses; something that clearly would involve significantly more discovery to  
28 develop than is the situation here where defendant is simply seeking information



1 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
2 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
3 committed some act. This information will allow Mr. Blakeman to depose such  
4 persons and to have a "just, speedy, and inexpensive determination [in this ]  
5 action." (FRCP Rule 1.)

6 The identification of witnesses is important not only to Mr. Blakeman's  
7 defense but also because they would contribute meaningfully to narrow the scope  
8 of the issues in dispute, set up early settlement discussions, and expose the  
9 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
10 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
11 are important in assessing whether it would be appropriate for the early use of  
12 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,  
13 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
14 Rule 56 motions as there appears to be no evidence supporting the causes of action  
15 against him. It also appears that there is a lack of evidence to even support  
16 probable cause to pursue an action against him and a Rule 11 motion is likewise  
17 being considered. The discovery is thus also intended to ferret out what appears to  
18 be baseless character assassination.

19 *In re Convergent Technologies Securities Litigation* recognized the  
20 importance of the identification of witnesses as a type of contention interrogatory  
21 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
22 frame work it provides related to contention interrogatories, also noted that the  
23 frame work does not apply to the identity of witnesses with knowledge of the facts  
24 giving rise to the litigation or documents supporting material factual allegations.  
25 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
26 litigation. (Id. 108 F.R.D. at 332-333).

27 The *In re Convergent Technologies Securities Litigation* frame work to be  
28 applied to contention interrogatories has been examined in the Central District of

1 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D.  
2 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
3 explicated the evolution of the analysis of when contention interrogatories were  
4 appropriate.

5 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
6 the Federal Rules of Civil Procedure.

7 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
8 construed to secure the just, speedy, and inexpensive determination of every  
9 action.” “There probably is no provision in the federal rules that is more important  
10 than this mandate. It reflects the spirit in which the rules were conceived and  
11 written, and in which they should be, and by and large have been, interpreted.....  
12 The Supreme Court of the United States has stated that these rules ‘are to be  
13 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
14 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
15 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85  
16 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*  
17 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

18 Judge Chapman allayed concerns about early use of contention  
19 interrogatories and recognized that contention interrogatories are allowed under the  
20 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
21 limited answers to interrogatories is not well-founded because such answers may  
22 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
23 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

24 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
25 *Technologies Securities Litigation*, had recently even acknowledged the  
26 importance of early use of contention interrogatories in certain matters:

27 In *Convergent Technologies*, Judge Wayne D. Brazil, in a  
28 very thoughtful opinion, held that the 1983 amendments to  
Fed.R.Civ.P. 26(b) compelled his conclusion that the “wisest

1 course is not to preclude entirely the early use of contention  
2 interrogatories, but to place a burden of justification on the  
3 party who seeks answers to these kinds of questions before  
4 substantial documentary or testimonial discovery has been  
5 completed.... [T]he propounding party must present specific,  
6 plausible grounds for believing that securing early answers  
7 to its contention questions will materially advance the goals  
8 of the Federal Rules of Civil Procedure.” 108 F.R.D. at 338–  
9 39. More recently, however, Judge Brazil has modified his  
10 position, noting that contention interrogatories may in  
11 certain cases be the most reliable and cost-effective  
12 discovery device, which would be less burdensome than  
13 depositions at which contention questions are propounded.  
14 See *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*,  
15 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately  
16 framed and timed contention interrogatories rather than  
17 depositions in patent infringement action was most  
18 appropriate vehicle for establishing infringers' contentions).  
19 *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*,  
20 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

21 In fact Judge Chapman, instead of placing the burden on the party  
22 propounding the request in justifying the need for early discovery on such issues,  
23 found placing the burden on the party opposing responding to the request, as is  
24 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

25 In this case, though, the requests made by Blakeman are appropriate no  
26 matter what analysis is applied to his alleged “contention interrogatories.” The  
27 requests seek to identify witnesses. If Blakeman has the burden to show this is  
28 necessary he easily meets it as there is no way he can potentially defend his case,  
bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
witnesses who supposedly support the allegations he is in a gang, that he commits  
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Alternatively, plaintiffs cannot show that they could even meet their burden in  
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2 Surely Mr. Blakeman, who is accused of such things, and has timely  
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4 the opportunity to know about and to depose the witnesses who allegedly support  
5 such allegations. Surely if no such persons exist then the lack of such evidence  
6 must be exposed. Failing to indicate whether such evidence exists or does not  
7 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
8 Procedure.

9 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

10 **Plaintiffs' Contention**

11 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
12 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
13 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
14 responses when they "learn[] that in some material respect the disclosure or  
15 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
16 Defendant Blakeman is in control of much of the information needed to respond to  
17 his contention interrogatories but, to date, has refused to produce any documents or  
18 videos in response to Plaintiffs' discovery requests and in violation of his  
19 obligations under Federal Rule 26(a).

20 1. **Unduly Burdensome, Harassing, and Duplicative**

21 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
22 claims against Blakeman on the grounds that they already disclosed the names of  
23 potential witnesses in their initial and supplemental disclosures. Specifically,  
24 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
25 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

26 Mr. Blakeman already has the list of potential witnesses in his possession.  
27 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
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6 subparts.

7           Courts have consistently concluded that an interrogatory that asks a party to  
8 identify facts, documents, and witnesses should count as separate interrogatories.  
9 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
10 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
11 documents, and witnesses,] and these subparts must be multiplied by the number of  
12 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
13 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
14 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
15 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

16           Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
17 containing multiple impermissible subparts is wholly improper and therefore  
18 Plaintiffs' objection on this ground was appropriate.

19           3.     Information Outside Plaintiff's Knowledge

20           Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
21 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
22 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
23 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
24 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
25 To the extent Plaintiffs identify additional witnesses who support their claims  
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11 either the attorney-client privilege or the attorney work product doctrine (or both)  
12 could protect the information from disclosure. The objections do not state that  
13 both privileges necessarily apply to each piece of information sought.

14 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
15 as evidenced by the inclusion of "to the extent that" preceding these objections.  
16 Rather, Plaintiffs have applied the work product doctrine to protect trial  
17 preparation materials that reveal attorney strategy, intended lines of proof,  
18 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
19 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
20 Plaintiffs have applied the attorney-client privilege to protect confidential  
21 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
22 (9th Cir. 2010).

23 5. Premature Contention Interrogatories

24 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
25 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
26 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
27 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
28 2014) at \*1-2. This objection was proper.



1           Contention interrogatories need not be answered until discovery is  
2 “substantially complete.” See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
3 that discovery was not “substantially complete” when the discovery cutoff was 4  
4 months away and depositions of fact witnesses or defendants had not yet occurred.  
5 The court opined that “[i]f Defendants had completed their document production,  
6 depositions were under way, and the discovery cutoff date was just a month or so  
7 away, Defendants *might* be entitled to the information they seek. But under the  
8 circumstances here, Defendants’ interrogatories are premature.” *Kmiec*, at \*1  
9 (emphasis added).

10           Similarly, the *Folz* court found that discovery was not substantially complete  
11 and the responding party had adequate time to supplement his answers when the  
12 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
14 2011), held that the responding party did not need to respond to contention  
15 interrogatories because discovery was “still in full-swing.” *HTC Corp.*, at \*3.

16           In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
18 have produced any documents despite Plaintiffs’ requests for production, and  
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
20 2016. Additionally, the parties have only taken 6 out of the 20 possible  
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
23 month. Thus, it is clear that the parties are in the early stages of discovery.  
24 Discovery is far from being “substantially complete”; therefore, Plaintiffs need not  
25 respond to Defendant Blakeman’s premature contention interrogatories.

26           6. IDENTIFY ALL PERSONS that have knowledge of any facts that  
27 support your contention that BLAKE BRANTMAN has illegally extorted money  
28 from beachgoers who wish to use Lunada Bay for recreational purposes (See



1 paragraph 33 j. of the Complaint) , and for each such PERSON identified state all  
2 facts you contend are within that PERSON's knowledge.

3 **Plaintiffs' Response to Interrogatory #6**

4 Responding party objects to this interrogatory as unduly burdensome,  
5 harassing, and duplicative of information disclosed in Responding Party's Rule  
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
8 information sought by this interrogatory. Moreover, Responding Party had the  
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This  
11 "interrogatory" contains multiple impermissible subparts, which Propounding  
12 Party has propounded in an effort to circumvent the numerical limitations on  
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it  
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades  
17 attorney-client privilege and/or violates the work product doctrine by compelling  
18 Responding Party to disclose privileged communications and/or litigation strategy.  
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because  
21 this interrogatory seeks or necessarily relies upon a contention, and because this  
22 matter is in its early stages and pretrial discovery has only just begun, Responding  
23 Party is unable to provide a complete response at this time, nor is it required to do  
24 so. *See Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
25 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
26 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
27 order that [a contention] interrogatory need not be answered until designated  
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this  
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all  
5 persons who plaintiffs claim support a specific contention made against Brant  
6 Blakeman in his personal capacity, not as a member of a group but as an  
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and  
9 the identification of the facts believed to be within those witnesses knowledge  
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his  
14 individual capacity. This definition expressly excludes  
15 Brant Blakeman as an alleged member of what plaintiff  
16 alleges are the "Lunada Bay Boys." This definition  
17 expressly excludes the actions or omissions of any other  
18 PERSON other than Brant Blakeman in his individual  
19 capacity. This definition expressly excludes acts of  
20 PERSONS other than Brant Blakeman that plaintiff  
21 attributes to Brant Blakeman under a theory of Civil  
22 Conspiracy.

23 Failure to produce the information sought by the Interrogatory is intended  
24 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
25 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
26 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
27 against him.

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1 The response offers only uniform boilerplate objections. Based on those  
2 objections, the response asserts that no answers to the requests will be provided.  
3 Because the objections are unmeritorious, a further, substantive response must be  
4 compelled.

5 **1. Undue Burden, Harassment, and Duplication**

6 Plaintiff contends that identifying the witnesses to the claims against Mr.  
7 Blakeman is unduly burdensome and harassing and the information can be found  
8 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
9 identify only one witness with potential knowledge concerning Mr. Blakeman,  
10 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
11 presented by this Interrogatory, then it certainly strains reason that answering it is  
12 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
13 did some act those witnesses likewise should be identified.

14 This objection by plaintiff is not a justification to refuse to provide a  
15 response to the interrogatory.

16 **2. The Interrogatory is Compound and has Subparts**

17 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
18 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
19 The Interrogatory seeks the identification of a witness and the facts within that  
20 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
21 "discrete subparts." Seeking the identification of witnesses and the facts within  
22 their knowledge are considered one interrogatory. (See *Chapman v. California*  
23 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
24 mathematical exercise, even were one to entertain the contention that the  
25 Interrogatory did not contain discrete subparts, there are only two: 12  
26 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
27 Rule 33 which allows for 25 interrogatories.

28 This objection by plaintiff is not a justification to refuse to provide a

1 response to the Interrogatory.

2       **3. The Interrogatory Seeks Information that is Outside of**  
3       **Responding Party's Knowledge**

4       Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
5 knowledge. This objection either wholly lacks merit or there are very troubling  
6 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

7       How is it that plaintiff can bring such egregious allegations without some  
8 personal knowledge of witnesses who will support the allegations (including the  
9 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
10 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
11 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
12 that support allegations, the response should merely state there are none.  
13 Otherwise the witnesses should be identified.

14       This objection by plaintiff is not a justification to refuse to provide a  
15 response to the Interrogatories.

16       **4. The Interrogatory Invades the Attorney Client Privilege**  
17       **and Attorney Work Product Doctrine**

18       Plaintiff objects that identifying witnesses and the facts within a witnesses  
19 knowledge that supports allegations that Mr. Blakeman acted in some manner  
20 invades the attorney client privilege. There is no legal support for withholding  
21 witnesses identities based on the attorney client privilege. Personal knowledge  
22 about facts are not privileged. "[T]he protection of the privilege extends only to  
23 communications and not to facts. A fact is one thing and a communication  
24 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
25 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

26       This objection by plaintiff is not a justification to refuse to provide a  
27 response to the Interrogatory.

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1           **5. The Interrogatory is Premature as a Contention Interrogatory**

2           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
3 state of litigation and pre-trial discovery, responding party is unable to provide a  
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
5 *Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
6 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
7 2014) at \*1-2.; and FRCP Rule 33(a)(2).

8           While this is an argument that contention interrogatories can be delayed, the  
9 subject interrogatories do not fall into that context; the responding party is the  
10 party making the allegations, not the one responding to the allegations.

11           This action involves plaintiffs (bound by their own pleading) in their  
12 individual capacities, as well as representative capacities, alleging intentional torts,  
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
14 Blakeman which each of these plaintiffs make include accusation of involvement  
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,  
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
17 have some idea of the witnesses, documents or facts to support the allegations.  
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19           No substantive responses are provided. It is likely that no basis exists for  
20 these allegations against Mr. Blakeman; he is entitled to know the basis before  
21 facing a deposition by ambush.

22           Plaintiffs’ refusal is fatally flawed in any event. The cases cited are  
23 inapposite.

24           *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
25 asking contention interrogatories to a shareholder plaintiff early in litigation  
26 required more time for the litigation to develop. Such is not the case with the  
27 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
28 people and make specific allegations against Mr. Blakeman for which (if pled

1 honestly) Plaintiffs alone have the supporting facts.

2 *Folz* related to contention interrogatories on defendant's affirmative  
3 defenses; something that clearly would involve significantly more discovery to  
4 develop than is the situation here where defendant is simply seeking information  
5 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
6 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
7 committed some act. This information will allow Mr. Blakeman to depose such  
8 persons and to have a "just, speedy, and inexpensive determination [in this ]  
9 action." (FRCP Rule 1.)

10 The identification of witnesses is important not only to Mr. Blakeman's  
11 defense but also because they would contribute meaningfully to narrow the scope  
12 of the issues in dispute, set up early settlement discussions, and expose the  
13 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
14 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
15 are important in assessing whether it would be appropriate for the early use of  
16 contention interrogatories (See *In re Convergent Technologies Securities*  
17 *Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to  
18 pursue Rule 56 motions as there appears to be no evidence supporting the causes of  
19 action against him. It also appears that there is a lack of evidence to even support  
20 probable cause to pursue an action against him and a Rule 11 motion is likewise  
21 being considered. The discovery is thus also intended to ferret out what appears to  
22 be baseless character assassination.

23 *In re Convergent Technologies Securities Litigation* recognized the  
24 importance of the identification of witnesses as a type of contention interrogatory  
25 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
26 frame work it provides related to contention interrogatories, also noted that the  
27 frame work does not apply to the identity of witnesses with knowledge of the facts  
28 giving rise to the litigation or documents supporting material factual allegations.

1 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
2 litigation. (Id. 108 F.R.D. at 332-333).

3 The *In re Convergent Technologies Securities Litigation* frame work to be  
4 applied to contention interrogatories has been examined in the Central District of  
5 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
6 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
7 explicated the evolution of the analysis of when contention interrogatories were  
8 appropriate.

9 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
10 the Federal Rules of Civil Procedure. Rule 1 of the Federal Rules of Civil  
11 Procedure directs that the rules “shall be construed to secure the just, speedy, and  
12 inexpensive determination of every action.” “There probably is no provision in the  
13 federal rules that is more important than this mandate. It reflects the spirit in which  
14 the rules were conceived and written, and in which they should be, and by and  
15 large have been, interpreted..... The Supreme Court of the United States has stated  
16 that these rules ‘are to be accorded a broad and liberal treatment’.” *Trevino v.*  
17 *Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329  
18 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*,  
19 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable &*  
20 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal.  
21 1997).)

22 Judge Chapman allayed concerns about early use of contention  
23 interrogatories and recognized that contention interrogatories are allowed under the  
24 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
25 limited answers to interrogatories is not well-founded because such answers may  
26 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
27 amend” answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

28 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*



1 *Technologies Securities Litigation*, had recently even acknowledged the  
2 importance of early use of contention interrogatories in certain matters:

3           In *Convergent Technologies*, Judge Wayne D. Brazil, in a  
4 very thoughtful opinion, held that the 1983 amendments to  
5 Fed.R.Civ.P. 26(b) compelled his conclusion that the  
6 “wisest course is not to preclude entirely the early use of  
7 contention interrogatories, but to place a burden of  
8 justification on the party who seeks answers to these kinds  
9 of questions before substantial documentary or testimonial  
10 discovery has been completed.... [T]he propounding party  
11 must present specific, plausible grounds for believing that  
12 securing early answers to its contention questions will  
13 materially advance the goals of the Federal Rules of Civil  
14 Procedure.” 108 F.R.D. at 338–39. More recently,  
15 however, Judge Brazil has modified his position, noting  
16 that contention interrogatories may in certain cases be the  
17 most reliable and cost-effective discovery device, which  
18 would be less burdensome than depositions at which  
19 contention questions are propounded. See *McCormick–*  
20 *Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
21 287 (N.D.Cal.1991) (holding appropriately framed and  
22 timed contention interrogatories rather than depositions in  
23 patent infringement action was most appropriate vehicle  
24 for establishing infringers' contentions). *Cable &*  
25 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
26 F.R.D. 646, 651–52 (C.D. Cal. 1997).

27           In fact Judge Chapman, instead of placing the burden on the party  
28 propounding the request in justifying the need for early discovery on such issues,  
found placing the burden on the party opposing responding to the request, as is  
done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

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1 In this case, though, the requests made by Blakeman are appropriate no  
2 matter what analysis is applied to his alleged “contention interrogatories.” The  
3 requests seek to identify witnesses. If Blakeman has the burden to show this is  
4 necessary he easily meets it as there is no way he can potentially defend his case,  
5 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
6 witnesses who supposedly support the allegations he is in a gang, that he commits  
7 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
8 Alternatively, plaintiffs cannot show that they could even meet their burden in  
9 resisting disclosure of this information. How could plaintiffs bring such egregious  
10 allegations (i.e. assault, battery, violations of the Bane Act) without having some  
11 witness to such acts by Mr. Blakeman let alone a witness who is a victim of such  
12 acts. This is compounded by the Plaintiffs’ initial disclosures that list only one  
13 witness who has some vague unspecified knowledge about Blakeman.

14 Surely Mr. Blakeman, who is accused of such things, and has timely  
15 requested supporting information for these very specific allegations, should have  
16 the opportunity to know about and to depose the witnesses who allegedly support  
17 such allegations. Surely if no such persons exist then the lack of such evidence  
18 must be exposed. Failing to indicate whether such evidence exists or does not  
19 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
20 Procedure.

21 This objection by plaintiff is not a justification to refuse to provide a  
22 response to the Interrogatory.

23 **Plaintiffs' Contention**

24 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
25 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
26 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
27 responses when they "learn[] that in some material respect the disclosure or  
28 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,

1 Defendant Blakeman is in control of much of the information needed to respond to  
2 his contention interrogatories but, to date, has refused to produce any documents or  
3 videos in response to Plaintiffs' discovery requests and in violation of his  
4 obligations under Federal Rule 26(a).

5 1. Unduly Burdensome, Harassing, and Duplicative

6 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
7 claims against Blakeman on the grounds that they already disclosed the names of  
8 potential witnesses in their initial and supplemental disclosures. Specifically,  
9 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
10 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

11 Mr. Blakeman already has the list of potential witnesses in his possession.  
12 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
13 to be compelled to identify these witnesses again.

14 2. Compound

15 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
16 knowledge of facts supporting their contentions and facts within each person's  
17 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
18 a party to 25 interrogatories propounded on any other party, including all discrete  
19 subparts.

20 Courts have consistently concluded that an interrogatory that asks a party to  
21 identify facts, documents, and witnesses should count as separate interrogatories.  
22 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
23 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
24 documents, and witnesses,] and these subparts must be multiplied by the number of  
25 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
26 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
27 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
28 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

1 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
2 containing multiple impermissible subparts is wholly improper and therefore  
3 Plaintiffs' objection on this ground was appropriate.

4 3. Information Outside Plaintiff's Knowledge

5 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
6 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
7 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
8 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
9 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
10 To the extent Plaintiffs identify additional witnesses who support their claims  
11 throughout the course of discovery in this matter, Plaintiffs are aware of their  
12 obligation under the Federal Rules to timely supplement their discovery and  
13 disclosures.

14 Plaintiffs' objection on the grounds that the interrogatories seek information  
15 outside their knowledge is an objection *only to the extent* that the information  
16 sought is outside the individually-responding Plaintiff's knowledge. Although  
17 Plaintiffs neglected to include the words "to the extent that" preceding these  
18 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
19 their objections to include this wording, if the Court so orders.

20 4. Attorney-Client Privilege and Attorney Work Product Doctrine

21 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
22 attorney-client privilege and/or the work product doctrine by compelling privileged  
23 communication and/or litigation strategy. These objections are worded such that  
24 either the attorney-client privilege or the attorney work product doctrine (or both)  
25 could protect the information from disclosure. The objections do not state that  
26 both privileges necessarily apply to each piece of information sought.

27 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
28 as evidenced by the inclusion of "to the extent that" preceding these objections.

1 Rather, Plaintiffs have applied the work product doctrine to protect trial  
2 preparation materials that reveal attorney strategy, intended lines of proof,  
3 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
4 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
5 Plaintiffs have applied the attorney-client privilege to protect confidential  
6 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
7 (9th Cir. 2010).

8       5.     Premature Contention Interrogatories

9       Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
10 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
11 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
12 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
13 2014) at \*1-2. This objection was proper.

14       Contention interrogatories need not be answered until discovery is  
15 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
16 that discovery was not "substantially complete" when the discovery cutoff was 4  
17 months away and depositions of fact witnesses or defendants had not yet occurred.  
18 The court opined that "[i]f Defendants had completed their document production,  
19 depositions were under way, and the discovery cutoff date was just a month or so  
20 away, Defendants *might* be entitled to the information they seek. But under the  
21 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
22 (emphasis added).

23       Similarly, the *Folz* court found that discovery was not substantially complete  
24 and the responding party had adequate time to supplement his answers when the  
25 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
26 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
27 2011), held that the responding party did not need to respond to contention  
28 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

1 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
2 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
3 have produced any documents despite Plaintiffs' requests for production, and  
4 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
5 2016. Additionally, the parties have only taken 6 out of the 20 possible  
6 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
7 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
8 month. Thus, it is clear that the parties are in the early stages of discovery.  
9 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
10 respond to Defendant Blakeman's premature contention interrogatories.

11 7. IDENTIFY ALL PERSONS that have knowledge of any facts that  
12 support your contention that BLAKE BRANTMAN was a part of a Civil  
13 Conspiracy as identified in your complaint in paragraphs 51 through 53, and for  
14 each such PERSON identified state all facts you contend are within that PERSON's  
15 knowledge.

16 **Plaintiffs' Response to Interrogatory #7**

17 Responding party objects to this interrogatory as unduly burdensome,  
18 harassing, and duplicative of information disclosed in Responding Party's Rule  
19 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
20 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
21 information sought by this interrogatory. Moreover, Responding Party had the  
22 opportunity to depose Mr. Spencer on this topic.

23 Responding party further objects to this interrogatory as compound. This  
24 "interrogatory" contains multiple impermissible subparts, which Propounding  
25 Party has propounded in an effort to circumvent the numerical limitations on  
26 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

27 Responding Party further objects to this interrogatory on the grounds that it  
28 seeks information that is outside of Responding Party's knowledge.



1 Responding Party further objects to the extent that this interrogatory invades  
2 attorney-client privilege and/or violates the work product doctrine by compelling  
3 Responding Party to disclose privileged communications and/or litigation strategy.  
4 Responding Party will not provide any such information.

5 Responding Party further objects to this interrogatory as premature. Because  
6 this interrogatory seeks or necessarily relies upon a contention, and because this  
7 matter is in its early stages and pretrial discovery has only just begun, Responding  
8 Party is unable to provide a complete response at this time, nor is it required to do  
9 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
10 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
11 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
12 order that [a contention] interrogatory need not be answered until designated  
13 discovery is complete, or until a pretrial conference or some other time.").

14 Based on the foregoing objections, Responding Party will not respond to this  
15 interrogatory at this time.

16 **Defendant Brant Blakeman's Contention**

17 The Interrogatory seeks witness information pertaining to any and all  
18 persons who plaintiffs claim support a specific contention made against Brant  
19 Blakeman in his personal capacity, not as a member of a group but as an  
20 individual.

21 The interrogatories at issue merely seek the identification of witnesses and  
22 the identification of the facts believed to be within those witnesses knowledge  
23 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
24 personal capacity.

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2 PERSON other than Brant Blakeman in his individual  
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4 PERSONS other than Brant Blakeman that plaintiff  
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9 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
10 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
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12 The response offers only uniform boilerplate objections. Based on those  
13 objections, the response asserts that no answers to the requests will be provided.  
14 Because the objections are unmeritorious, a further, substantive response must be  
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17 Plaintiff contends that identifying the witnesses to the claims against Mr.  
18 Blakeman is unduly burdensome and harassing and the information can be found  
19 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
20 identify only one witness with potential knowledge concerning Mr. Blakeman,  
21 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
22 presented by this Interrogatory, then it certainly strains reason that answering it is  
23 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
24 did some act those witnesses likewise should be identified.

25 This objection by plaintiff is not a justification to refuse to provide a  
26 response to the interrogatory.

27 **2. The Interrogatory is Compound and has Subparts**

28 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.

1 The Interrogatory seeks the identification of a witness and the facts within that  
2 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
3 "discrete subparts." Seeking the identification of witnesses and the facts within  
4 their knowledge are considered one interrogatory. (See *Chapman v. California*  
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6 mathematical exercise, even were one to entertain the contention that the  
7 Interrogatory did not contain discrete subparts, there are only two: 12  
8 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
9 Rule 33 which allows for 25 interrogatories.

10 This objection by plaintiff is not a justification to refuse to provide a  
11 response to the Interrogatory.

12 **3. The Interrogatory Seeks Information that is Outside of**  
13 **Responding Party's Knowledge**

14 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
15 knowledge. This objection either wholly lacks merit or there are very troubling  
16 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

17 How is it that plaintiff can bring such egregious allegations without some  
18 personal knowledge of witnesses who will support the allegations (including the  
19 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
20 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
21 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
22 that support allegations, the response should merely state there are none.  
23 Otherwise the witnesses should be identified.

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25 response to the Interrogatories.

26 **4. The Interrogatory Invades the Attorney Client Privilege and**  
27 **Attorney Work Product Doctrine**

28 Plaintiff objects that identifying witnesses and the facts within a witnesses

1 knowledge that supports allegations that Mr. Blakeman acted in some manner  
2 invades the attorney client privilege. There is no legal support for withholding  
3 witnesses identities based on the attorney client privilege. Personal knowledge  
4 about facts are not privileged. "[T]he protection of the privilege extends only to  
5 communications and not to facts. A fact is one thing and a communication  
6 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
7 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

8 This objection by plaintiff is not a justification to refuse to provide a  
9 response to the Interrogatory.

10 **5. The Interrogatory is Premature as a Contention Interrogatory**

11 Plaintiff alleges the Interrogatory seeks a contention and due to the early  
12 state of litigation and pre-trial discovery, responding party is unable to provide a  
13 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
14 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
15 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
16 2014) at \*1-2.; and FRCP Rule 33(a)(2).

17 While this is an argument that contention interrogatories can be delayed, the  
18 subject interrogatories do not fall into that context; the responding party is the  
19 party making the allegations, not the one responding to the allegations.

20 This action involves plaintiffs (bound by their own pleading) in their  
21 individual capacities, as well as representative capacities, alleging intentional torts,  
22 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
23 Blakeman which each of these plaintiffs make include accusation of involvement  
24 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
25 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
26 have some idea of the witnesses, documents or facts to support the allegations.  
27 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

28 No substantive responses are provided. It is likely that no basis exists for

1 these allegations against Mr. Blakeman; he is entitled to know the basis before  
2 facing a deposition by ambush.

3 Plaintiffs' refusal is fatally flawed in any event. The cases cited are  
4 inapposite.

5 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
6 asking contention interrogatories to a shareholder plaintiff early in litigation  
7 required more time for the litigation to develop. Such is not the case with the  
8 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
9 people and make specific allegations against Mr. Blakeman for which (if pled  
10 honestly) Plaintiffs alone have the supporting facts.

11 *Folz* related to contention interrogatories on defendant's affirmative  
12 defenses; something that clearly would involve significantly more discovery to  
13 develop than is the situation here where defendant is simply seeking information  
14 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
15 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
16 committed some act. This information will allow Mr. Blakeman to depose such  
17 persons and to have a "just, speedy, and inexpensive determination [in this ]  
18 action." (FRCP Rule 1.)

19 The identification of witnesses is important not only to Mr. Blakeman's  
20 defense but also because they would contribute meaningfully to narrow the scope  
21 of the issues in dispute, set up early settlement discussions, and expose the  
22 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
23 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
24 are important in assessing whether it would be appropriate for the early use of  
25 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,  
26 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
27 Rule 56 motions as there appears to be no evidence supporting the causes of action  
28 against him. It also appears that there is a lack of evidence to even support

1 probable cause to pursue an action against him and a Rule 11 motion is likewise  
2 being considered. The discovery is thus also intended to ferret out what appears to  
3 be baseless character assassination.

4 *In re Convergent Technologies Securities Litigation* recognized the  
5 importance of the identification of witnesses as a type of contention interrogatory  
6 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
7 frame work it provides related to contention interrogatories, also noted that the  
8 frame work does not apply to the identity of witnesses with knowledge of the facts  
9 giving rise to the litigation or documents supporting material factual allegations.  
10 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
11 litigation. (Id. 108 F.R.D. at 332-333).

12 The *In re Convergent Technologies Securities Litigation* frame work to be  
13 applied to contention interrogatories has been examined in the Central District of  
14 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
15 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
16 explicated the evolution of the analysis of when contention interrogatories were  
17 appropriate.

18 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
19 the Federal Rules of Civil Procedure.

20 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
21 construed to secure the just, speedy, and inexpensive determination of every  
22 action.” “There probably is no provision in the federal rules that is more important  
23 than this mandate. It reflects the spirit in which the rules were conceived and  
24 written, and in which they should be, and by and large have been, interpreted.....  
25 The Supreme Court of the United States has stated that these rules ‘are to be  
26 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
27 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
28 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85

1 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*  
2 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

3 Judge Chapman allayed concerns about early use of contention  
4 interrogatories and recognized that contention interrogatories are allowed under the  
5 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
6 limited answers to interrogatories is not well-founded because such answers may  
7 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
8 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

9 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
10 *Technologies Securities Litigation*, had recently even acknowledged the  
11 importance of early use of contention interrogatories in certain matters:

12 *In Convergent Technologies*, Judge Wayne D. Brazil, in a  
13 very thoughtful opinion, held that the 1983 amendments to  
14 Fed.R.Civ.P. 26(b) compelled his conclusion that the  
15 “wisest course is not to preclude entirely the early use of  
16 contention interrogatories, but to place a burden of  
17 justification on the party who seeks answers to these kinds  
18 of questions before substantial documentary or testimonial  
19 discovery has been completed.... [T]he propounding party  
20 must present specific, plausible grounds for believing that  
21 securing early answers to its contention questions will  
22 materially advance the goals of the Federal Rules of Civil  
23 Procedure.” 108 F.R.D. at 338–39. More recently,  
24 however, Judge Brazil has modified his position, noting  
25 that contention interrogatories may in certain cases be the  
26 most reliable and cost-effective discovery device, which  
27 would be less burdensome than depositions at which  
28 contention questions are propounded. See *McCormick–*  
*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
287 (N.D.Cal.1991) (holding appropriately framed and  
timed contention interrogatories rather than depositions in  
patent infringement action was most appropriate vehicle  
for establishing infringers' contentions). *Cable &*  
*Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
F.R.D. 646, 651–52 (C.D. Cal. 1997).



1 In fact Judge Chapman, instead of placing the burden on the party  
2 propounding the request in justifying the need for early discovery on such issues,  
3 found placing the burden on the party opposing responding to the request, as is  
4 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

5 In this case, though, the requests made by Blakeman are appropriate no  
6 matter what analysis is applied to his alleged “contention interrogatories.” The  
7 requests seek to identify witnesses. If Blakeman has the burden to show this is  
8 necessary he easily meets it as there is no way he can potentially defend his case,  
9 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
10 witnesses who supposedly support the allegations he is in a gang, that he commits  
11 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
12 Alternatively, plaintiffs cannot show that they could even meet their burden in  
13 resisting disclosure of this information.

14 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
15 violations of the Bane act) without having some witness to such acts by Mr.  
16 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
17 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
18 unspecified knowledge about Blakeman.

19 Surely Mr. Blakeman, who is accused of such things, and has timely  
20 requested supporting information for these very specific allegations, should have  
21 the opportunity to know about and to depose the witnesses who allegedly support  
22 such allegations. Surely if no such persons exist then the lack of such evidence  
23 must be exposed. Failing to indicate whether such evidence exists or does not  
24 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
25 Procedure.

26 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

27 **Plaintiffs' Contention**

28 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy



1 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
2 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
3 responses when they "learn[] that in some material respect the disclosure or  
4 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
5 Defendant Blakeman is in control of much of the information needed to respond to  
6 his contention interrogatories but, to date, has refused to produce any documents or  
7 videos in response to Plaintiffs' discovery requests and in violation of his  
8 obligations under Federal Rule 26(a).

9 1. Unduly Burdensome, Harassing, and Duplicative

10 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
11 claims against Blakeman on the grounds that they already disclosed the names of  
12 potential witnesses in their initial and supplemental disclosures. Specifically,  
13 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
14 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

15 Mr. Blakeman already has the list of potential witnesses in his possession.  
16 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
17 to be compelled to identify these witnesses again.

18 2. Compound

19 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
20 knowledge of facts supporting their contentions and facts within each person's  
21 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
22 a party to 25 interrogatories propounded on any other party, including all discrete  
23 subparts.

24 Courts have consistently concluded that an interrogatory that asks a party to  
25 identify facts, documents, and witnesses should count as separate interrogatories.  
26 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
27 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
28 documents, and witnesses,] and these subparts must be multiplied by the number of

1 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger*,  
2 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
3 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
4 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

5 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
6 containing multiple impermissible subparts is wholly improper and therefore  
7 Plaintiffs' objection on this ground was appropriate.

8 3. Information Outside Plaintiff's Knowledge

9 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
10 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
11 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
12 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
13 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
14 To the extent Plaintiffs identify additional witnesses who support their claims  
15 throughout the course of discovery in this matter, Plaintiffs are aware of their  
16 obligation under the Federal Rules to timely supplement their discovery and  
17 disclosures.

18 Plaintiffs' objection on the grounds that the interrogatories seek information  
19 outside their knowledge is an objection *only to the extent* that the information  
20 sought is outside the individually-responding Plaintiff's knowledge. Although  
21 Plaintiffs neglected to include the words "to the extent that" preceding these  
22 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
23 their objections to include this wording, if the Court so orders.

24 4. Attorney-Client Privilege and Attorney Work Product Doctrine

25 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
26 attorney-client privilege and/or the work product doctrine by compelling privileged  
27 communication and/or litigation strategy. These objections are worded such that  
28 either the attorney-client privilege or the attorney work product doctrine (or both)

1 could protect the information from disclosure. The objections do not state that  
2 both privileges necessarily apply to each piece of information sought.

3 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
4 as evidenced by the inclusion of "to the extent that" preceding these objections.  
5 Rather, Plaintiffs have applied the work product doctrine to protect trial  
6 preparation materials that reveal attorney strategy, intended lines of proof,  
7 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
8 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
9 Plaintiffs have applied the attorney-client privilege to protect confidential  
10 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
11 (9th Cir. 2010).

12 5. Premature Contention Interrogatories

13 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
14 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
15 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
16 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
17 2014) at \*1-2. This objection was proper.

18 Contention interrogatories need not be answered until discovery is  
19 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
20 that discovery was not "substantially complete" when the discovery cutoff was 4  
21 months away and depositions of fact witnesses or defendants had not yet occurred.  
22 The court opined that "[i]f Defendants had completed their document production,  
23 depositions were under way, and the discovery cutoff date was just a month or so  
24 away, Defendants *might* be entitled to the information they seek. But under the  
25 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
26 (emphasis added).

27 Similarly, the *Folz* court found that discovery was not substantially complete  
28 and the responding party had adequate time to supplement his answers when the

1 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
2 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
3 2011), held that the responding party did not need to respond to contention  
4 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

5 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
6 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
7 have produced any documents despite Plaintiffs' requests for production, and  
8 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
9 2016. Additionally, the parties have only taken 6 out of the 20 possible  
10 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
11 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
12 month. Thus, it is clear that the parties are in the early stages of discovery.  
13 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
14 respond to Defendant Blakeman's premature contention interrogatories.

15 8. IDENTIFY ALL PERSONS that have knowledge of any facts that  
16 support plaintiffs' First Cause of Action in the Complaint (Bane Act Violations)  
17 against BRANT BLAKEMAN, and for each such PERSON identified state all  
18 facts you contend are within that PERSON's knowledge.

19 **Plaintiffs' Response to Interrogatory #8**

20 Responding party objects to this interrogatory as unduly burdensome,  
21 harassing, and duplicative of information disclosed in Responding Party's Rule  
22 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
23 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
24 information sought by this interrogatory. Moreover, Responding Party had the  
25 opportunity to depose Mr. Spencer on this topic.

26 Responding party further objects to this interrogatory as compound. This  
27 "interrogatory" contains multiple impermissible subparts, which Propounding  
28 Party has propounded in an effort to circumvent the numerical limitations on

1 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

2 Responding Party further objects to this interrogatory on the grounds that it  
3 seeks information that is outside of Responding Party's knowledge.

4 Responding Party further objects to the extent that this interrogatory invades  
5 attorney-client privilege and/or violates the work product doctrine by compelling  
6 Responding Party to disclose privileged communications and/or litigation strategy.  
7 Responding Party will not provide any such information.

8 Responding Party further objects to this interrogatory as premature. Because  
9 this interrogatory seeks or necessarily relies upon a contention, and because this  
10 matter is in its early stages and pretrial discovery has only just begun, Responding  
11 Party is unable to provide a complete response at this time, nor is it required to do  
12 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
13 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
14 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
15 order that [a contention] interrogatory need not be answered until designated  
16 discovery is complete, or until a pretrial conference or some other time.").

17 Based on the foregoing objections, Responding Party will not respond to this  
18 interrogatory at this time.

19 **Defendant Brant Blakeman's Contention**

20 The Interrogatory seeks witness information pertaining to any and all  
21 persons who plaintiffs claim support a specific contention made against Brant  
22 Blakeman in his personal capacity, not as a member of a group but as an  
23 individual.

24 The interrogatories at issue merely seek the identification of witnesses and  
25 the identification of the facts believed to be within those witnesses knowledge  
26 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
27 personal capacity.

28 The discovery requests defined "BRANT BLAKEMAN" as follows:

1 BRANT BLAKEMAN means only Brant Blakeman in his  
2 individual capacity. This definition expressly excludes  
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11 Failure to produce the information sought by the Interrogatory is intended  
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27 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
28 did some act those witnesses likewise should be identified.

29 This objection by plaintiff is not a justification to refuse to provide a  
30 response to the interrogatory.

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1           **2. The Interrogatory is Compound and has Subparts**

2           Plaintiff contends the Interrogatory is designed to circumvent the numerical  
3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
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10 Interrogatory did not contain discrete subparts, there are only two: 12  
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
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15           **3. The Interrogatory Seeks Information that is Outside of**  
16           **Responding Party's Knowledge**

17           Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
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19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

20           How is it that plaintiff can bring such egregious allegations without some  
21 personal knowledge of witnesses who will support the allegations (including the  
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
25 that support allegations, the response should merely state there are none.  
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28 response to the Interrogatories.



1           **4. The Interrogatory Invades the Attorney Client Privilege**  
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3           Plaintiff objects that identifying witnesses and the facts within a witnesses  
4 knowledge that supports allegations that Mr. Blakeman acted in some manner  
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6 witnesses identities based on the attorney client privilege. Personal knowledge  
7 about facts are not privileged. "[T]he protection of the privilege extends only to  
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14           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
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24 individual capacities, as well as representative capacities, alleging intentional torts,  
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27 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
28 rape and similar egregious crimes. Having made these allegations Plaintiffs must

1 have some idea of the witnesses, documents or facts to support the allegations.  
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23 defense but also because they would contribute meaningfully to narrow the scope  
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25 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
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1 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
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would be less burdensome than depositions at which  
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*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
287 (N.D.Cal.1991) (holding appropriately framed and  
timed contention interrogatories rather than depositions in

1 patent infringement action was most appropriate vehicle  
2 for establishing infringers' contentions). *Cable &*  
3 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
4 F.R.D. 646, 651–52 (C.D. Cal. 1997).

5 In fact Judge Chapman, instead of placing the burden on the party  
6 propounding the request in justifying the need for early discovery on such issues,  
7 found placing the burden on the party opposing responding to the request, as is  
8 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

9 In this case, though, the requests made by Blakeman are appropriate no  
10 matter what analysis is applied to his alleged “contention interrogatories.” The  
11 requests seek to identify witnesses. If Blakeman has the burden to show this is  
12 necessary he easily meets it as there is no way he can potentially defend his case,  
13 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
14 witnesses who supposedly support the allegations he is in a gang, that he commits  
15 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
16 Alternatively, plaintiffs cannot show that they could even meet their burden in  
17 resisting disclosure of this information.

18 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
19 violations of the Bane act) without having some witness to such acts by Mr.  
20 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
21 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
22 unspecified knowledge about Blakeman.

23 Surely Mr. Blakeman, who is accused of such things, and has timely  
24 requested supporting information for these very specific allegations, should have  
25 the opportunity to know about and to depose the witnesses who allegedly support  
26 such allegations. Surely if no such persons exist then the lack of such evidence  
27 must be exposed. Failing to indicate whether such evidence exists or does not

28 ///

1 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
2 Procedure.

3 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

4 **Plaintiffs' Contention**

5 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
6 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
7 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
8 responses when they "learn[] that in some material respect the disclosure or  
9 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
10 Defendant Blakeman is in control of much of the information needed to respond to  
11 his contention interrogatories but, to date, has refused to produce any documents or  
12 videos in response to Plaintiffs' discovery requests and in violation of his  
13 obligations under Federal Rule 26(a).

14 1. **Unduly Burdensome, Harassing, and Duplicative**

15 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
16 claims against Blakeman on the grounds that they already disclosed the names of  
17 potential witnesses in their initial and supplemental disclosures. Specifically,  
18 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
19 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

20 Mr. Blakeman already has the list of potential witnesses in his possession.  
21 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
22 to be compelled to identify these witnesses again.

23 2. **Compound**

24 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
25 knowledge of facts supporting their contentions and facts within each person's  
26 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
27 a party to 25 interrogatories propounded on any other party, including all discrete  
28 subparts.



1 Courts have consistently concluded that an interrogatory that asks a party to  
2 identify facts, documents, and witnesses should count as separate interrogatories.  
3 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
4 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
5 documents, and witnesses,] and these subparts must be multiplied by the number of  
6 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
7 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
8 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
9 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

10 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
11 containing multiple impermissible subparts is wholly improper and therefore  
12 Plaintiffs' objection on this ground was appropriate.

13 3. Information Outside Plaintiff's Knowledge

14 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
15 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
16 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
17 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
18 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
19 To the extent Plaintiffs identify additional witnesses who support their claims  
20 throughout the course of discovery in this matter, Plaintiffs are aware of their  
21 obligation under the Federal Rules to timely supplement their discovery and  
22 disclosures.

23 Plaintiffs' objection on the grounds that the interrogatories seek information  
24 outside their knowledge is an objection *only to the extent* that the information  
25 sought is outside the individually-responding Plaintiff's knowledge. Although  
26 Plaintiffs neglected to include the words "to the extent that" preceding these  
27 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
28 their objections to include this wording, if the Court so orders.



1           4.     Attorney-Client Privilege and Attorney Work Product Doctrine

2           Plaintiffs objected to the interrogatories *to the extent that* they invade the  
3 attorney-client privilege and/or the work product doctrine by compelling privileged  
4 communication and/or litigation strategy. These objections are worded such that  
5 either the attorney-client privilege or the attorney work product doctrine (or both)  
6 could protect the information from disclosure. The objections do not state that  
7 both privileges necessarily apply to each piece of information sought.

8           Furthermore, Plaintiffs do not claim that all information sought is privileged,  
9 as evidenced by the inclusion of "to the extent that" preceding these objections.  
10 Rather, Plaintiffs have applied the work product doctrine to protect trial  
11 preparation materials that reveal attorney strategy, intended lines of proof,  
12 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
13 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
14 Plaintiffs have applied the attorney-client privilege to protect confidential  
15 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
16 (9th Cir. 2010).

17           5.     Premature Contention Interrogatories

18           Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
19 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
20 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
21 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
22 2014) at \*1-2. This objection was proper.

23           Contention interrogatories need not be answered until discovery is  
24 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
25 that discovery was not "substantially complete" when the discovery cutoff was 4  
26 months away and depositions of fact witnesses or defendants had not yet occurred.  
27 The court opined that "[i]f Defendants had completed their document production,  
28 depositions were under way, and the discovery cutoff date was just a month or so

1 away, Defendants ***might*** be entitled to the information they seek. But under the  
2 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
3 (emphasis added).

4 Similarly, the *Folz* court found that discovery was not substantially complete  
5 and the responding party had adequate time to supplement his answers when the  
6 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
7 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
8 2011), held that the responding party did not need to respond to contention  
9 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

10 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
11 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
12 have produced any documents despite Plaintiffs' requests for production, and  
13 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
14 2016. Additionally, the parties have only taken 6 out of the 20 possible  
15 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
16 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
17 month. Thus, it is clear that the parties are in the early stages of discovery.  
18 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
19 respond to Defendant Blakeman's premature contention interrogatories.

20  
21 9. IDENTIFY ALL PERSONS that have knowledge of any facts that  
22 support plaintiffs' Second Cause of Action in the Complaint (Public Nuisance)  
23 against BRANT BLAKEMAN, and for each such PERSON identified state all  
24 facts you contend are within that PERSON's knowledge.

25 **Plaintiffs' Response to Interrogatory #9**

26 Responding party objects to this interrogatory as unduly burdensome,  
27 harassing, and duplicative of information disclosed in Responding Party's Rule  
28 26(a) disclosures and supplemental disclosures. Propounding Party may look to

1 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
2 information sought by this interrogatory. Moreover, Responding Party had the  
3 opportunity to depose Mr. Spencer on this topic.

4 Responding party further objects to this interrogatory as compound. This  
5 "interrogatory" contains multiple impermissible subparts, which Propounding  
6 Party has propounded in an effort to circumvent the numerical limitations on  
7 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

8 Responding Party further objects to this interrogatory on the grounds that it  
9 seeks information that is outside of Responding Party's knowledge.

10 Responding Party further objects to the extent that this interrogatory invades  
11 attorney-client privilege and/or violates the work product doctrine by compelling  
12 Responding Party to disclose privileged communications and/or litigation strategy.  
13 Responding Party will not provide any such information.

14 Responding Party further objects to this interrogatory as premature. Because  
15 this interrogatory seeks or necessarily relies upon a contention, and because this  
16 matter is in its early stages and pretrial discovery has only just begun, Responding  
17 Party is unable to provide a complete response at this time, nor is it required to do  
18 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
19 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
20 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
21 order that [a contention] interrogatory need not be answered until designated  
22 discovery is complete, or until a pretrial conference or some other time.").

23 Based on the foregoing objections, Responding Party will not respond to this  
24 interrogatory at this time.

25 **Defendant Brant Blakeman's Contention**

26 The Interrogatory seeks witness information pertaining to any and all  
27 persons who plaintiffs claim support a specific contention made against Brant  
28 Blakeman in his personal capacity, not as a member of a group but as an

1 individual.

2 The interrogatories at issue merely seek the identification of witnesses and  
3 the identification of the facts believed to be within those witnesses knowledge  
4 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
5 personal capacity.

6 The discovery requests defined "BRANT BLAKEMAN" as follows:

7 BRANT BLAKEMAN means only Brant Blakeman in his  
8 individual capacity. This definition expressly excludes  
9 Brant Blakeman as an alleged member of what plaintiff  
10 alleges are the "Lunada Bay Boys." This definition  
11 expressly excludes the actions or omissions of any other  
12 PERSON other than Brant Blakeman in his individual  
13 capacity. This definition expressly excludes acts of  
14 PERSONS other than Brant Blakeman that plaintiff  
15 attributes to Brant Blakeman under a theory of Civil  
16 Conspiracy.

17 Failure to produce the information sought by the Interrogatory is intended  
18 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
19 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
20 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
21 against him.

22 The response offers only uniform boilerplate objections. Based on those  
23 objections, the response asserts that no answers to the requests will be provided.  
24 Because the objections are unmeritorious, a further, substantive response must be  
25 compelled.

26 **1. Undue Burden, Harassment, and Duplication**

27 Plaintiff contends that identifying the witnesses to the claims against Mr.  
28 Blakeman is unduly burdensome and harassing and the information can be found  
in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
identify only one witness with potential knowledge concerning Mr. Blakeman,

1 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
2 presented by this Interrogatory, then it certainly strains reason that answering it is  
3 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
4 did some act those witnesses likewise should be identified.

5 This objection by plaintiff is not a justification to refuse to provide a  
6 response to the interrogatory.

7 **2. The Interrogatory is Compound and has Subparts**

8 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
9 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
10 The Interrogatory seeks the identification of a witness and the facts within that  
11 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
12 "discrete subparts." Seeking the identification of witnesses and the facts within  
13 their knowledge are considered one interrogatory. (See *Chapman v. California*  
14 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
15 mathematical exercise, even were one to entertain the contention that the  
16 Interrogatory did not contain discrete subparts, there are only two: 12  
17 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
18 Rule 33 which allows for 25 interrogatories.

19 This objection by plaintiff is not a justification to refuse to provide a  
20 response to the Interrogatory.

21 **3. The Interrogatory Seeks Information that is Outside of**  
22 **Responding Party's Knowledge**

23 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
24 knowledge. This objection either wholly lacks merit or there are very troubling  
25 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

26 How is it that plaintiff can bring such egregious allegations without some  
27 personal knowledge of witnesses who will support the allegations (including the  
28 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing

1 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
2 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
3 that support allegations, the response should merely state there are none.  
4 Otherwise the witnesses should be identified.

5 This objection by plaintiff is not a justification to refuse to provide a  
6 response to the Interrogatories.

7 **4. The Interrogatory Invades the Attorney Client Privilege and**  
8 **Attorney Work Product Doctrine**

9 Plaintiff objects that identifying witnesses and the facts within a witnesses  
10 knowledge that supports allegations that Mr. Blakeman acted in some manner  
11 invades the attorney client privilege. There is no legal support for withholding  
12 witnesses identities based on the attorney client privilege. Personal knowledge  
13 about facts are not privileged. "[T]he protection of the privilege extends only to  
14 communications and not to facts. A fact is one thing and a communication  
15 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
16 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

17 This objection by plaintiff is not a justification to refuse to provide a  
18 response to the Interrogatory.

19 **5. The Interrogatory is Premature as a Contention Interrogatory**

20 Plaintiff alleges the Interrogatory seeks a contention and due to the early  
21 state of litigation and pre-trial discovery, responding party is unable to provide a  
22 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
23 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
24 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
25 2014) at \*1-2.; and FRCP Rule 33(a)(2).

26 While this is an argument that contention interrogatories can be delayed, the  
27 subject interrogatories do not fall into that context; the responding party is the  
28 party making the allegations, not the one responding to the allegations.

1 This action involves plaintiffs (bound by their own pleading) in their  
2 individual capacities, as well as representative capacities, alleging intentional torts,  
3 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
4 Blakeman which each of these plaintiffs make include accusation of involvement  
5 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
6 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
7 have some idea of the witnesses, documents or facts to support the allegations.  
8 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

9 No substantive responses are provided. It is likely that no basis exists for  
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8 *Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
9 287 (N.D.Cal.1991) (holding appropriately framed and  
10 timed contention interrogatories rather than depositions in  
11 patent infringement action was most appropriate vehicle  
12 for establishing infringers' contentions). *Cable &*  
13 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
14 F.R.D. 646, 651–52 (C.D. Cal. 1997).

15 In fact Judge Chapman, instead of placing the burden on the party  
16 propounding the request in justifying the need for early discovery on such issues,  
17 found placing the burden on the party opposing responding to the request, as is  
18 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

19 In this case, though, the requests made by Blakeman are appropriate no  
20 matter what analysis is applied to his alleged “contention interrogatories.” The  
21 requests seek to identify witnesses. If Blakeman has the burden to show this is  
22 necessary he easily meets it as there is no way he can potentially defend his case,  
23 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
24 witnesses who supposedly support the allegations he is in a gang, that he commits  
25 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
26 Alternatively, plaintiffs cannot show that they could even meet their burden in  
27 resisting disclosure of this information.

28 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
violations of the Bane act) without having some witness to such acts by Mr.  
Blakeman let alone a witness who is a victim of such acts. This is compounded by  
the Plaintiffs’ initial disclosures that list only one witness who has some vague  
unspecified knowledge about Blakeman.

1 Surely Mr. Blakeman, who is accused of such things, and has timely  
2 requested supporting information for these very specific allegations, should have  
3 the opportunity to know about and to depose the witnesses who allegedly support  
4 such allegations. Surely if no such persons exist then the lack of such evidence  
5 must be exposed. Failing to indicate whether such evidence exists or does not  
6 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
7 Procedure.

8 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

9 **Plaintiffs' Contention**

10 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
11 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
12 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
13 responses when they "learn[] that in some material respect the disclosure or  
14 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
15 Defendant Blakeman is in control of much of the information needed to respond to  
16 his contention interrogatories but, to date, has refused to produce any documents or  
17 videos in response to Plaintiffs' discovery requests and in violation of his  
18 obligations under Federal Rule 26(a).

19 1. **Unduly Burdensome, Harassing, and Duplicative**

20 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
21 claims against Blakeman on the grounds that they already disclosed the names of  
22 potential witnesses in their initial and supplemental disclosures. Specifically,  
23 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
24 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

25 Mr. Blakeman already has the list of potential witnesses in his possession.  
26 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
27 to be compelled to identify these witnesses again.

28 ///

1           2.     Compound

2           Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
3 knowledge of facts supporting their contentions and facts within each person's  
4 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
5 a party to 25 interrogatories propounded on any other party, including all discrete  
6 subparts.

7           Courts have consistently concluded that an interrogatory that asks a party to  
8 identify facts, documents, and witnesses should count as separate interrogatories.  
9 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
10 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,  
11 documents, and witnesses,] and these subparts must be multiplied by the number of  
12 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*  
13 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
14 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
15 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

16           Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
17 containing multiple impermissible subparts is wholly improper and therefore  
18 Plaintiffs' objection on this ground was appropriate.

19           3.     Information Outside Plaintiff's Knowledge

20           Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
21 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
22 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
23 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
24 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
25 To the extent Plaintiffs identify additional witnesses who support their claims  
26 throughout the course of discovery in this matter, Plaintiffs are aware of their  
27 obligation under the Federal Rules to timely supplement their discovery and  
28 disclosures.

1 Plaintiffs' objection on the grounds that the interrogatories seek information  
2 outside their knowledge is an objection *only to the extent* that the information  
3 sought is outside the individually-responding Plaintiff's knowledge. Although  
4 Plaintiffs neglected to include the words "to the extent that" preceding these  
5 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
6 their objections to include this wording, if the Court so orders.

7 4. Attorney-Client Privilege and Attorney Work Product Doctrine

8 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
9 attorney-client privilege and/or the work product doctrine by compelling privileged  
10 communication and/or litigation strategy. These objections are worded such that  
11 either the attorney-client privilege or the attorney work product doctrine (or both)  
12 could protect the information from disclosure. The objections do not state that  
13 both privileges necessarily apply to each piece of information sought.

14 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
15 as evidenced by the inclusion of "to the extent that" preceding these objections.  
16 Rather, Plaintiffs have applied the work product doctrine to protect trial  
17 preparation materials that reveal attorney strategy, intended lines of proof,  
18 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
19 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
20 Plaintiffs have applied the attorney-client privilege to protect confidential  
21 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
22 (9th Cir. 2010).

23 5. Premature Contention Interrogatories

24 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
25 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
26 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
27 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
28 2014) at \*1-2. This objection was proper.



1           Contention interrogatories need not be answered until discovery is  
2 “substantially complete.” See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
3 that discovery was not “substantially complete” when the discovery cutoff was 4  
4 months away and depositions of fact witnesses or defendants had not yet occurred.  
5 The court opined that “[i]f Defendants had completed their document production,  
6 depositions were under way, and the discovery cutoff date was just a month or so  
7 away, Defendants *might* be entitled to the information they seek. But under the  
8 circumstances here, Defendants’ interrogatories are premature.” *Kmiec*, at \*1  
9 (emphasis added).

10           Similarly, the *Folz* court found that discovery was not substantially complete  
11 and the responding party had adequate time to supplement his answers when the  
12 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
14 2011), held that the responding party did not need to respond to contention  
15 interrogatories because discovery was “still in full-swing.” *HTC Corp.*, at \*3.

16           In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
18 have produced any documents despite Plaintiffs’ requests for production, and  
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
20 2016. Additionally, the parties have only taken 6 out of the 20 possible  
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
23 month. Thus, it is clear that the parties are in the early stages of discovery.  
24 Discovery is far from being “substantially complete”; therefore, Plaintiffs need not  
25 respond to Defendant Blakeman’s premature contention interrogatories.

26  
27           10. IDENTIFY ALL PERSONS that have knowledge of any facts that  
28 support plaintiffs’ Sixth Cause of Action in the Complaint (Assault) against



1 BRANT BLAKEMAN, and for each such PERSON identified state all facts you  
2 contend are within that PERSON's knowledge.

3 **Plaintiffs' Response to Interrogatory #10**

4 Responding party objects to this interrogatory as unduly burdensome,  
5 harassing, and duplicative of information disclosed in Responding Party's Rule  
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
8 information sought by this interrogatory. Moreover, Responding Party had the  
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This  
11 "interrogatory" contains multiple impermissible subparts, which Propounding  
12 Party has propounded in an effort to circumvent the numerical limitations on  
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it  
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades  
17 attorney-client privilege and/or violates the work product doctrine by compelling  
18 Responding Party to disclose privileged communications and/or litigation strategy.  
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because  
21 this interrogatory seeks or necessarily relies upon a contention, and because this  
22 matter is in its early stages and pretrial discovery has only just begun, Responding  
23 Party is unable to provide a complete response at this time, nor is it required to do  
24 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
25 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
26 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
27 order that [a contention] interrogatory need not be answered until designated  
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this  
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all  
5 persons who plaintiffs claim support a specific contention made against Brant  
6 Blakeman in his personal capacity, not as a member of a group but as an  
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and  
9 the identification of the facts believed to be within those witnesses knowledge  
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his  
14 individual capacity. This definition expressly excludes  
15 Brant Blakeman as an alleged member of what plaintiff  
16 alleges are the "Lunada Bay Boys." This definition  
17 expressly excludes the actions or omissions of any other  
18 PERSON other than Brant Blakeman in his individual  
19 capacity. This definition expressly excludes acts of  
20 PERSONS other than Brant Blakeman that plaintiff  
21 attributes to Brant Blakeman under a theory of Civil  
22 Conspiracy.

23 Failure to produce the information sought by the Interrogatory is intended  
24 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
25 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
26 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
27 against him.

28 The response offers only uniform boilerplate objections. Based on those  
objections, the response asserts that no answers to the requests will be provided.  
Because the objections are unmeritorious, a further, substantive response must be

1 compelled.

2 **1. Undue Burden, Harassment, and Duplication**

3 Plaintiff contends that identifying the witnesses to the claims against Mr.  
4 Blakeman is unduly burdensome and harassing and the information can be found  
5 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
6 identify only one witness with potential knowledge concerning Mr. Blakeman,  
7 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
8 presented by this Interrogatory, then it certainly strains reason that answering it is  
9 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
10 did some act those witnesses likewise should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a  
12 response to the interrogatory.

13 **2. The Interrogatory is Compound and has Subparts**

14 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
15 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
16 The Interrogatory seeks the identification of a witness and the facts within that  
17 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
18 "discrete subparts." Seeking the identification of witnesses and the facts within  
19 their knowledge are considered one interrogatory. (See *Chapman v. California*  
20 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
21 mathematical exercise, even were one to entertain the contention that the  
22 Interrogatory did not contain discrete subparts, there are only two: 12  
23 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
24 Rule 33 which allows for 25 interrogatories.

25 This objection by plaintiff is not a justification to refuse to provide a  
26 response to the Interrogatory.

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1           **3. The Interrogatory Seeks Information that is Outside of**  
2           **Responding Party's Knowledge**

3           Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
4 knowledge. This objection either wholly lacks merit or there are very troubling  
5 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

6           How is it that plaintiff can bring such egregious allegations without some  
7 personal knowledge of witnesses who will support the allegations (including the  
8 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
9 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
10 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
11 that support allegations, the response should merely state there are none.  
12 Otherwise the witnesses should be identified.

13           This objection by plaintiff is not a justification to refuse to provide a  
14 response to the Interrogatories.

15           **4. The Interrogatory Invades the Attorney Client Privilege and**  
16           **Attorney Work Product Doctrine**

17           Plaintiff objects that identifying witnesses and the facts within a witnesses  
18 knowledge that supports allegations that Mr. Blakeman acted in some manner  
19 invades the attorney client privilege. There is no legal support for withholding  
20 witnesses identities based on the attorney client privilege. Personal knowledge  
21 about facts are not privileged. "[T]he protection of the privilege extends only to  
22 communications and not to facts. A fact is one thing and a communication  
23 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
24 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

25           This objection by plaintiff is not a justification to refuse to provide a  
26 response to the Interrogatory.

27 ///

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1           **5. The Interrogatory is Premature as a Contention Interrogatory**

2           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
3 state of litigation and pre-trial discovery, responding party is unable to provide a  
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
5 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
6 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
7 2014) at \*1-2.; and FRCP Rule 33(a)(2).

8           While this is an argument that contention interrogatories can be delayed, the  
9 subject interrogatories do not fall into that context; the responding party is the  
10 party making the allegations, not the one responding to the allegations.

11           This action involves plaintiffs (bound by their own pleading) in their  
12 individual capacities, as well as representative capacities, alleging intentional torts,  
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
14 Blakeman which each of these plaintiffs make include accusation of involvement  
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,  
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
17 have some idea of the witnesses, documents or facts to support the allegations.  
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19           No substantive responses are provided. It is likely that no basis exists for  
20 these allegations against Mr. Blakeman; he is entitled to know the basis before  
21 facing a deposition by ambush.

22           Plaintiffs’ refusal is fatally flawed in any event. The cases cited are  
23 inapposite.

24           *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
25 asking contention interrogatories to a shareholder plaintiff early in litigation  
26 required more time for the litigation to develop. Such is not the case with the  
27 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
28 people and make specific allegations against Mr. Blakeman for which (if pled

1 honestly) Plaintiffs alone have the supporting facts.

2 *Folz* related to contention interrogatories on defendant's affirmative  
3 defenses; something that clearly would involve significantly more discovery to  
4 develop than is the situation here where defendant is simply seeking information  
5 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
6 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
7 committed some act. This information will allow Mr. Blakeman to depose such  
8 persons and to have a "just, speedy, and inexpensive determination [in this ]  
9 action." (FRCP Rule 1.)

10 The identification of witnesses is important not only to Mr. Blakeman's  
11 defense but also because they would contribute meaningfully to narrow the scope  
12 of the issues in dispute, set up early settlement discussions, and expose the  
13 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
14 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
15 are important in assessing whether it would be appropriate for the early use of  
16 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,  
17 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
18 Rule 56 motions as there appears to be no evidence supporting the causes of action  
19 against him. It also appears that there is a lack of evidence to even support  
20 probable cause to pursue an action against him and a Rule 11 motion is likewise  
21 being considered. The discovery is thus also intended to ferret out what appears to  
22 be baseless character assassination.

23 *In re Convergent Technologies Securities Litigation* recognized the  
24 importance of the identification of witnesses as a type of contention interrogatory  
25 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
26 frame work it provides related to contention interrogatories, also noted that the  
27 frame work does not apply to the identity of witnesses with knowledge of the facts  
28 giving rise to the litigation or documents supporting material factual allegations.



1 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
2 litigation. (Id. 108 F.R.D. at 332-333).

3 The *In re Convergent Technologies Securities Litigation* frame work to be  
4 applied to contention interrogatories has been examined in the Central District of  
5 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
6 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
7 explicated the evolution of the analysis of when contention interrogatories were  
8 appropriate.

9 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
10 the Federal Rules of Civil Procedure.

11 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
12 construed to secure the just, speedy, and inexpensive determination of every  
13 action.” “There probably is no provision in the federal rules that is more important  
14 than this mandate. It reflects the spirit in which the rules were conceived and  
15 written, and in which they should be, and by and large have been, interpreted.....  
16 The Supreme Court of the United States has stated that these rules ‘are to be  
17 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
18 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
19 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85  
20 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*  
21 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

22 Judge Chapman allayed concerns about early use of contention  
23 interrogatories and recognized that contention interrogatories are allowed under the  
24 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
25 limited answers to interrogatories is not well-founded because such answers may  
26 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
27 amend” answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

28 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*

1 *Technologies Securities Litigation*, had recently even acknowledged the  
2 importance of early use of contention interrogatories in certain matters:

3       *In Convergent Technologies*, Judge Wayne D. Brazil, in a  
4 very thoughtful opinion, held that the 1983 amendments to  
5 Fed.R.Civ.P. 26(b) compelled his conclusion that the  
6 “wisest course is not to preclude entirely the early use of  
7 contention interrogatories, but to place a burden of  
8 justification on the party who seeks answers to these kinds  
9 of questions before substantial documentary or testimonial  
10 discovery has been completed.... [T]he propounding party  
11 must present specific, plausible grounds for believing that  
12 securing early answers to its contention questions will  
13 materially advance the goals of the Federal Rules of Civil  
14 Procedure.” 108 F.R.D. at 338–39. More recently,  
15 however, Judge Brazil has modified his position, noting  
16 that contention interrogatories may in certain cases be the  
17 most reliable and cost-effective discovery device, which  
18 would be less burdensome than depositions at which  
19 contention questions are propounded. See *McCormick–*  
*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
287 (N.D.Cal.1991) (holding appropriately framed and  
timed contention interrogatories rather than depositions in  
patent infringement action was most appropriate vehicle  
for establishing infringers' contentions). *Cable &*  
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F.R.D. 646, 651–52 (C.D. Cal. 1997).

20       In fact Judge Chapman, instead of placing the burden on the party  
21 propounding the request in justifying the need for early discovery on such issues,  
22 found placing the burden on the party opposing responding to the request, as is  
23 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

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1 In this case, though, the requests made by Blakeman are appropriate no  
2 matter what analysis is applied to his alleged “contention interrogatories.” The  
3 requests seek to identify witnesses. If Blakeman has the burden to show this is  
4 necessary he easily meets it as there is no way he can potentially defend his case,  
5 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
6 witnesses who supposedly support the allegations he is in a gang, that he commits  
7 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
8 Alternatively, plaintiffs cannot show that they could even meet their burden in  
9 resisting disclosure of this information.

10 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
11 violations of the Bane act) without having some witness to such acts by Mr.  
12 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
13 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
14 unspecified knowledge about Blakeman.

15 Surely Mr. Blakeman, who is accused of such things, and has timely  
16 requested supporting information for these very specific allegations, should have  
17 the opportunity to know about and to depose the witnesses who allegedly support  
18 such allegations. Surely if no such persons exist then the lack of such evidence  
19 must be exposed. Failing to indicate whether such evidence exists or does not  
20 exist only serves to thwart the truth and the spirit of the Federal Rules of Civil  
21 Procedure.

22 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

23 **Plaintiffs' Contention**

24 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
25 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
26 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
27 responses when they "learn[] that in some material respect the disclosure or  
28 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,

1 Defendant Blakeman is in control of much of the information needed to respond to  
2 his contention interrogatories but, to date, has refused to produce any documents or  
3 videos in response to Plaintiffs' discovery requests and in violation of his  
4 obligations under Federal Rule 26(a).

5 1. Unduly Burdensome, Harassing, and Duplicative

6 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
7 claims against Blakeman on the grounds that they already disclosed the names of  
8 potential witnesses in their initial and supplemental disclosures. Specifically,  
9 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
10 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

11 Mr. Blakeman already has the list of potential witnesses in his possession.  
12 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
13 to be compelled to identify these witnesses again.

14 2. Compound

15 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
16 knowledge of facts supporting their contentions and facts within each person's  
17 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
18 a party to 25 interrogatories propounded on any other party, including all discrete  
19 subparts.

20 Courts have consistently concluded that an interrogatory that asks a party to  
21 identify facts, documents, and witnesses should count as separate interrogatories.  
22 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
23 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,  
24 documents, and witnesses,] and these subparts must be multiplied by the number of  
25 RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger,*  
26 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
27 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
28 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

1 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
2 containing multiple impermissible subparts is wholly improper and therefore  
3 Plaintiffs' objection on this ground was appropriate.

4 3. Information Outside Plaintiff's Knowledge

5 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
6 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
7 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
8 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
9 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
10 To the extent Plaintiffs identify additional witnesses who support their claims  
11 throughout the course of discovery in this matter, Plaintiffs are aware of their  
12 obligation under the Federal Rules to timely supplement their discovery and  
13 disclosures.

14 Plaintiffs' objection on the grounds that the interrogatories seek information  
15 outside their knowledge is an objection *only to the extent* that the information  
16 sought is outside the individually-responding Plaintiff's knowledge. Although  
17 Plaintiffs neglected to include the words "to the extent that" preceding these  
18 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
19 their objections to include this wording, if the Court so orders.

20 4. Attorney-Client Privilege and Attorney Work Product Doctrine

21 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
22 attorney-client privilege and/or the work product doctrine by compelling privileged  
23 communication and/or litigation strategy. These objections are worded such that  
24 either the attorney-client privilege or the attorney work product doctrine (or both)  
25 could protect the information from disclosure. The objections do not state that  
26 both privileges necessarily apply to each piece of information sought.

27 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
28 as evidenced by the inclusion of "to the extent that" preceding these objections.

1 Rather, Plaintiffs have applied the work product doctrine to protect trial  
2 preparation materials that reveal attorney strategy, intended lines of proof,  
3 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
4 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
5 Plaintiffs have applied the attorney-client privilege to protect confidential  
6 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
7 (9th Cir. 2010).

8       5.     Premature Contention Interrogatories

9       Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
10 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
11 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
12 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
13 2014) at \*1-2. This objection was proper.

14       Contention interrogatories need not be answered until discovery is  
15 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
16 that discovery was not "substantially complete" when the discovery cutoff was 4  
17 months away and depositions of fact witnesses or defendants had not yet occurred.  
18 The court opined that "[i]f Defendants had completed their document production,  
19 depositions were under way, and the discovery cutoff date was just a month or so  
20 away, Defendants *might* be entitled to the information they seek. But under the  
21 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
22 (emphasis added).

23       Similarly, the *Folz* court found that discovery was not substantially complete  
24 and the responding party had adequate time to supplement his answers when the  
25 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
26 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
27 2011), held that the responding party did not need to respond to contention  
28 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.



1 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
2 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
3 have produced any documents despite Plaintiffs' requests for production, and  
4 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
5 2016. Additionally, the parties have only taken 6 out of the 20 possible  
6 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
7 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
8 month. Thus, it is clear that the parties are in the early stages of discovery.  
9 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
10 respond to Defendant Blakeman's premature contention interrogatories.

11  
12 11. IDENTIFY ALL PERSONS that have knowledge of any facts that  
13 support plaintiffs' Seventh Cause of Action in the Complaint (Battery) against  
14 BRANT BLAKEMAN, and for each such PERSON identified state all facts you  
15 contend are within that PERSON's knowledge.

16 **Plaintiffs' Response to Interrogatory #11**

17 Responding party objects to this interrogatory as unduly burdensome,  
18 harassing, and duplicative of information disclosed in Responding Party's Rule  
19 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
20 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
21 information sought by this interrogatory. Moreover, Responding Party had the  
22 opportunity to depose Mr. Spencer on this topic.

23 Responding party further objects to this interrogatory as compound. This  
24 "interrogatory" contains multiple impermissible subparts, which Propounding  
25 Party has propounded in an effort to circumvent the numerical limitations on  
26 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

27 Responding Party further objects to this interrogatory on the grounds that it  
28 seeks information that is outside of Responding Party's knowledge.



1 Responding Party further objects to the extent that this interrogatory invades  
2 attorney-client privilege and/or violates the work product doctrine by compelling  
3 Responding Party to disclose privileged communications and/or litigation strategy.  
4 Responding Party will not provide any such information.

5 Responding Party further objects to this interrogatory as premature. Because  
6 this interrogatory seeks or necessarily relies upon a contention, and because this  
7 matter is in its early stages and pretrial discovery has only just begun, Responding  
8 Party is unable to provide a complete response at this time, nor is it required to do  
9 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
10 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
11 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may  
12 order that [a contention] interrogatory need not be answered until designated  
13 discovery is complete, or until a pretrial conference or some other time.”).

14 Based on the foregoing objections, Responding Party will not respond to this  
15 interrogatory at this time.

16 **Defendant Brant Blakeman’s Contention**

17 The Interrogatory seeks witness information pertaining to any and all  
18 persons who plaintiffs claim support a specific contention made against Brant  
19 Blakeman in his personal capacity, not as a member of a group but as an  
20 individual.

21 The interrogatories at issue merely seek the identification of witnesses and  
22 the identification of the facts believed to be within those witnesses knowledge  
23 purportedly supporting plaintiffs’ specific allegations against Mr. Blakeman in his  
24 personal capacity.

25 The discovery requests defined "BRANT BLAKEMAN" as follows:

26 BRANT BLAKEMAN means only Brant Blakeman in his  
27 individual capacity. This definition expressly excludes  
28 Brant Blakeman as an alleged member of what plaintiff  
alleges are the "Lunada Bay Boys." This definition  
expressly excludes the actions or omissions of any other

1 PERSON other than Brant Blakeman in his individual  
2 capacity. This definition expressly excludes acts of  
3 PERSONS other than Brant Blakeman that plaintiff  
4 attributes to Brant Blakeman under a theory of Civil  
5 Conspiracy.

6 Failure to produce the information sought by the Interrogatory is intended  
7 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
8 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
9 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
10 against him.

11 The response offers only uniform boilerplate objections. Based on those  
12 objections, the response asserts that no answers to the requests will be provided.  
13 Because the objections are unmeritorious, a further, substantive response must be  
14 compelled.

15 **1. Undue Burden, Harassment, and Duplication**

16 Plaintiff contends that identifying the witnesses to the claims against Mr.  
17 Blakeman is unduly burdensome and harassing and the information can be found  
18 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
19 identify only one witness with potential knowledge concerning Mr. Blakeman,  
20 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
21 presented by this Interrogatory, then it certainly strains reason that answering it is  
22 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
23 did some act those witnesses likewise should be identified.

24 This objection by plaintiff is not a justification to refuse to provide a  
25 response to the interrogatory.

26 **2. The Interrogatory is Compound and has Subparts**

27 Plaintiff contends the Interrogatory is designed to circumvent the numerical  
28 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
The Interrogatory seeks the identification of a witness and the facts within that

1 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
2 "discrete subparts." Seeking the identification of witnesses and the facts within  
3 their knowledge are considered one interrogatory. (See *Chapman v. California*  
4 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
5 mathematical exercise, even were one to entertain the contention that the  
6 Interrogatory did not contain discrete subparts, there are only two: 12  
7 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
8 Rule 33 which allows for 25 interrogatories.

9 This objection by plaintiff is not a justification to refuse to provide a  
10 response to the Interrogatory.

11 **3. The Interrogatory Seeks Information that is Outside of**  
12 **Responding Party's Knowledge**

13 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
14 knowledge. This objection either wholly lacks merit or there are very troubling  
15 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

16 How is it that plaintiff can bring such egregious allegations without some  
17 personal knowledge of witnesses who will support the allegations (including the  
18 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
19 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
20 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
21 that support allegations, the response should merely state there are none.  
22 Otherwise the witnesses should be identified.

23 This objection by plaintiff is not a justification to refuse to provide a  
24 response to the Interrogatories.

25 **4. The Interrogatory Invades the Attorney Client Privilege and**  
26 **Attorney Work Product Doctrine**

27 Plaintiff objects that identifying witnesses and the facts within a witnesses  
28 knowledge that supports allegations that Mr. Blakeman acted in some manner

1 invades the attorney client privilege. There is no legal support for withholding  
2 witnesses identities based on the attorney client privilege. Personal knowledge  
3 about facts are not privileged. "[T]he protection of the privilege extends only to  
4 communications and not to facts. A fact is one thing and a communication  
5 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
6 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

7 This objection by plaintiff is not a justification to refuse to provide a  
8 response to the Interrogatory.

9 **5. The Interrogatory is Premature as a Contention Interrogatory**

10 Plaintiff alleges the Interrogatory seeks a contention and due to the early  
11 state of litigation and pre-trial discovery, responding party is unable to provide a  
12 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
13 *Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
14 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
15 2014) at \*1-2.; and FRCP Rule 33(a)(2).

16 While this is an argument that contention interrogatories can be delayed, the  
17 subject interrogatories do not fall into that context; the responding party is the  
18 party making the allegations, not the one responding to the allegations.

19 This action involves plaintiffs (bound by their own pleading) in their  
20 individual capacities, as well as representative capacities, alleging intentional torts,  
21 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
22 Blakeman which each of these plaintiffs make include accusation of involvement  
23 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
24 rape and similar egregious crimes. Having made these allegations Plaintiffs must  
25 have some idea of the witnesses, documents or facts to support the allegations.  
26 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

27 No substantive responses are provided. It is likely that no basis exists for  
28 these allegations against Mr. Blakeman; he is entitled to know the basis before

1 facing a deposition by ambush.

2 Plaintiffs' refusal is fatally flawed in any event. The cases cited are  
3 inapposite.

4 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
5 asking contention interrogatories to a shareholder plaintiff early in litigation  
6 required more time for the litigation to develop. Such is not the case with the  
7 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
8 people and make specific allegations against Mr. Blakeman for which (if pled  
9 honestly) Plaintiffs alone have the supporting facts.

10 *Folz* related to contention interrogatories on defendant's affirmative  
11 defenses; something that clearly would involve significantly more discovery to  
12 develop than is the situation here where defendant is simply seeking information  
13 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
14 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
15 committed some act. This information will allow Mr. Blakeman to depose such  
16 persons and to have a "just, speedy, and inexpensive determination [in this ]  
17 action." (FRCP Rule 1.)

18 The identification of witnesses is important not only to Mr. Blakeman's  
19 defense but also because they would contribute meaningfully to narrow the scope  
20 of the issues in dispute, set up early settlement discussions, and expose the  
21 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
22 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
23 are important in assessing whether it would be appropriate for the early use of  
24 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,  
25 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
26 Rule 56 motions as there appears to be no evidence supporting the causes of action  
27 against him. It also appears that there is a lack of evidence to even support  
28 probable cause to pursue an action against him and a Rule 11 motion is likewise

1 being considered. The discovery is thus also intended to ferret out what appears to  
2 be baseless character assassination.

3       *In re Convergent Technologies Securities Litigation* recognized the  
4 importance of the identification of witnesses as a type of contention interrogatory  
5 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
6 frame work it provides related to contention interrogatories, also noted that the  
7 frame work does not apply to the identity of witnesses with knowledge of the facts  
8 giving rise to the litigation or documents supporting material factual allegations.  
9 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
10 litigation. (Id. 108 F.R.D. at 332-333).

11       The *In re Convergent Technologies Securities Litigation* frame work to be  
12 applied to contention interrogatories has been examined in the Central District of  
13 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
14 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
15 explicated the evolution of the analysis of when contention interrogatories were  
16 appropriate.

17       Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
18 the Federal Rules of Civil Procedure.

19       Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be  
20 construed to secure the just, speedy, and inexpensive determination of every  
21 action.” “There probably is no provision in the federal rules that is more important  
22 than this mandate. It reflects the spirit in which the rules were conceived and  
23 written, and in which they should be, and by and large have been, interpreted.....  
24 The Supreme Court of the United States has stated that these rules ‘are to be  
25 accorded a broad and liberal treatment’.” *Trevino v. Celanese Corp.*, 701 F.2d 397,  
26 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,  
27 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85  
28 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*



1 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

2 Judge Chapman allayed concerns about early use of contention  
3 interrogatories and recognized that contention interrogatories are allowed under the  
4 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
5 limited answers to interrogatories is not well-founded because such answers may  
6 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
7 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

8 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
9 *Technologies Securities Litigation*, had recently even acknowledged the  
10 importance of early use of contention interrogatories in certain matters:

11 In *Convergent Technologies*, Judge Wayne D. Brazil, in a very  
12 thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P.  
13 26(b) compelled his conclusion that the “wisest course is not to  
14 preclude entirely the early use of contention interrogatories, but to  
15 place a burden of justification on the party who seeks answers to  
16 these kinds of questions before substantial documentary or  
17 testimonial discovery has been completed.... [T]he propounding  
18 party must present specific, plausible grounds for believing that  
19 securing early answers to its contention questions will materially  
20 advance the goals of the Federal Rules of Civil Procedure.” 108  
21 F.R.D. at 338–39. More recently, however, Judge Brazil has  
22 modified his position, noting that contention interrogatories may in  
23 certain cases be the most reliable and cost-effective discovery  
24 device, which would be less burdensome than depositions at which  
25 contention questions are propounded. See *McCormick–Morgan,*  
26 *Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287  
(N.D.Cal.1991) (holding appropriately framed and timed  
27 contention interrogatories rather than depositions in patent  
28 infringement action was most appropriate vehicle for establishing  
infringers' contentions). *Cable & Computer Tech., Inc. v.*  
*Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal.  
1997).

23 In fact Judge Chapman, instead of placing the burden on the party  
24 propounding the request in justifying the need for early discovery on such issues,  
25 found placing the burden on the party opposing responding to the request, as is  
26 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

27 In this case, though, the requests made by Blakeman are appropriate no  
28 matter what analysis is applied to his alleged “contention interrogatories.” The

1 requests seek to identify witnesses. If Blakeman has the burden to show this is  
2 necessary he easily meets it as there is no way he can potentially defend his case,  
3 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
4 witnesses who supposedly support the allegations he is in a gang, that he commits  
5 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
6 Alternatively, plaintiffs cannot show that they could even meet their burden in  
7 resisting disclosure of this information.

8 How could plaintiffs bring such egregious allegations (i.e. assault, battery,  
9 violations of the Bane act) without having some witness to such acts by Mr.  
10 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
11 the Plaintiffs' initial disclosures that list only one witness who has some vague  
12 unspecified knowledge about Blakeman.

13 Surely Mr. Blakeman, who is accused of such things, and has timely  
14 requested supporting information for these very specific allegations, should have  
15 the opportunity to know about and to depose the witnesses who allegedly support  
16 such allegations. Surely if no such persons exist then the lack of such evidence  
17 must be exposed. Failing to indicate whether such evidence exists or does not  
18 exist only serves to thwart the truth and the spirit of the Federal Rules of Civil  
19 Procedure.

20 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

21 **Plaintiffs' Contention**

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
25 responses when they "learn[] that in some material respect the disclosure or  
26 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
27 Defendant Blakeman is in control of much of the information needed to respond to  
28 his contention interrogatories but, to date, has refused to produce any documents or

1 videos in response to Plaintiffs' discovery requests and in violation of his  
2 obligations under Federal Rule 26(a).

3 1. Unduly Burdensome, Harassing, and Duplicative

4 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
5 claims against Blakeman on the grounds that they already disclosed the names of  
6 potential witnesses in their initial and supplemental disclosures. Specifically,  
7 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
8 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

9 Mr. Blakeman already has the list of potential witnesses in his possession.  
10 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
11 to be compelled to identify these witnesses again.

12 2. Compound

13 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
14 knowledge of facts supporting their contentions and facts within each person's  
15 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
16 a party to 25 interrogatories propounded on any other party, including all discrete  
17 subparts.

18 Courts have consistently concluded that an interrogatory that asks a party to  
19 identify facts, documents, and witnesses should count as separate interrogatories.  
20 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
21 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,  
22 documents, and witnesses,] and these subparts must be multiplied by the number of  
23 RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger,*  
24 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
25 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
26 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

27 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
28 containing multiple impermissible subparts is wholly improper and therefore

1 Plaintiffs' objection on this ground was appropriate.

2 3. Information Outside Plaintiff's Knowledge

3 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
4 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
5 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
6 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
7 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
8 To the extent Plaintiffs identify additional witnesses who support their claims  
9 throughout the course of discovery in this matter, Plaintiffs are aware of their  
10 obligation under the Federal Rules to timely supplement their discovery and  
11 disclosures.

12 Plaintiffs' objection on the grounds that the interrogatories seek information  
13 outside their knowledge is an objection *only to the extent* that the information  
14 sought is outside the individually-responding Plaintiff's knowledge. Although  
15 Plaintiffs neglected to include the words "to the extent that" preceding these  
16 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
17 their objections to include this wording, if the Court so orders.

18 4. Attorney-Client Privilege and Attorney Work Product Doctrine

19 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
20 attorney-client privilege and/or the work product doctrine by compelling privileged  
21 communication and/or litigation strategy. These objections are worded such that  
22 either the attorney-client privilege or the attorney work product doctrine (or both)  
23 could protect the information from disclosure. The objections do not state that  
24 both privileges necessarily apply to each piece of information sought.

25 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
26 as evidenced by the inclusion of "to the extent that" preceding these objections.  
27 Rather, Plaintiffs have applied the work product doctrine to protect trial  
28 preparation materials that reveal attorney strategy, intended lines of proof,

1 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
2 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
3 Plaintiffs have applied the attorney-client privilege to protect confidential  
4 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
5 (9th Cir. 2010).

6 5. Premature Contention Interrogatories

7 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
8 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
9 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
10 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
11 2014) at \*1-2. This objection was proper.

12 Contention interrogatories need not be answered until discovery is  
13 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
14 that discovery was not "substantially complete" when the discovery cutoff was 4  
15 months away and depositions of fact witnesses or defendants had not yet occurred.  
16 The court opined that "[i]f Defendants had completed their document production,  
17 depositions were under way, and the discovery cutoff date was just a month or so  
18 away, Defendants *might* be entitled to the information they seek. But under the  
19 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
20 (emphasis added).

21 Similarly, the *Folz* court found that discovery was not substantially complete  
22 and the responding party had adequate time to supplement his answers when the  
23 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
24 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
25 2011), held that the responding party did not need to respond to contention  
26 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

27 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
28 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –

1 have produced any documents despite Plaintiffs' requests for production, and  
2 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
3 2016. Additionally, the parties have only taken 6 out of the 20 possible  
4 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
5 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
6 month. Thus, it is clear that the parties are in the early stages of discovery.  
7 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
8 respond to Defendant Blakeman's premature contention interrogatories.

9  
10 12. IDENTIFY ALL PERSONS that have knowledge of any facts that  
11 support plaintiffs' Eighth Cause of Action in the Complaint (Negligence) against  
12 BRANT BLAKEMAN, and for each such PERSON identified state all facts you  
13 contend are within that PERSON's knowledge.

14 **Plaintiffs' Response to Interrogatory #12**

15 Responding party objects to this interrogatory as unduly burdensome,  
16 harassing, and duplicative of information disclosed in Responding Party's Rule  
17 26(a) disclosures and supplemental disclosures. Propounding Party may look to  
18 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the  
19 information sought by this interrogatory. Moreover, Responding Party had the  
20 opportunity to depose Mr. Spencer on this topic.

21 Responding party further objects to this interrogatory as compound. This  
22 "interrogatory" contains multiple impermissible subparts, which Propounding  
23 Party has propounded in an effort to circumvent the numerical limitations on  
24 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

25 Responding Party further objects to this interrogatory on the grounds that it  
26 seeks information that is outside of Responding Party's knowledge.

27 Responding Party further objects to the extent that this interrogatory invades  
28 attorney-client privilege and/or violates the work product doctrine by compelling



1 Responding Party to disclose privileged communications and/or litigation strategy.  
2 Responding Party will not provide any such information.

3 Responding Party further objects to this interrogatory as premature. Because  
4 this interrogatory seeks or necessarily relies upon a contention, and because this  
5 matter is in its early stages and pretrial discovery has only just begun, Responding  
6 Party is unable to provide a complete response at this time, nor is it required to do  
7 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.  
8 Dec. 2, 2014) at \*1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929  
9 (S.D. Cal. Jan. 31 2014) at \*1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may  
10 order that [a contention] interrogatory need not be answered until designated  
11 discovery is complete, or until a pretrial conference or some other time.").

12 Based on the foregoing objections, Responding Party will not respond to this  
13 interrogatory at this time.

14 **Defendant Brant Blakeman's Contention**

15 The Interrogatory seeks witness information pertaining to any and all  
16 persons who plaintiffs claim support a specific contention made against Brant  
17 Blakeman in his personal capacity, not as a member of a group but as an  
18 individual.

19 The interrogatories at issue merely seek the identification of witnesses and  
20 the identification of the facts believed to be within those witnesses knowledge  
21 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his  
22 personal capacity.

23 The discovery requests defined "BRANT BLAKEMAN" as follows:

24 BRANT BLAKEMAN means only Brant Blakeman in his  
25 individual capacity. This definition expressly excludes  
26 Brant Blakeman as an alleged member of what plaintiff  
27 alleges are the "Lunada Bay Boys." This definition  
28 expressly excludes the actions or omissions of any other  
PERSON other than Brant Blakeman in his individual  
capacity. This definition expressly excludes acts of

1 PERSONS other than Brant Blakeman that plaintiff  
2 attributes to Brant Blakeman under a theory of Civil  
3 Conspiracy.

4 Failure to produce the information sought by the Interrogatory is intended  
5 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that  
6 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely  
7 hoping to take while he is unprepared in his defense to plaintiffs' contentions  
8 against him.

9 The response offers only uniform boilerplate objections. Based on those  
10 objections, the response asserts that no answers to the requests will be provided.  
11 Because the objections are unmeritorious, a further, substantive response must be  
12 compelled.

13 **1. Undue Burden, Harassment, and Duplication**

14 Plaintiff contends that identifying the witnesses to the claims against Mr.  
15 Blakeman is unduly burdensome and harassing and the information can be found  
16 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure  
17 identify only one witness with potential knowledge concerning Mr. Blakeman,  
18 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry  
19 presented by this Interrogatory, then it certainly strains reason that answering it is  
20 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman  
21 did some act those witnesses likewise should be identified.

22 This objection by plaintiff is not a justification to refuse to provide a  
23 response to the interrogatory.

24 ///

25 ///

26 ///

27 ///

1           **2. The Interrogatory is Compound and has Subparts**

2           Plaintiff contends the Interrogatory is designed to circumvent the numerical  
3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.  
4 The Interrogatory seeks the identification of a witness and the facts within that  
5 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include  
6 "discrete subparts." Seeking the identification of witnesses and the facts within  
7 their knowledge are considered one interrogatory. (See *Chapman v. California*  
8 *Dept. of Educ.*, 2002 WL 32854376, at \*1 (N.D.Cal.,2002)). For sake of  
9 mathematical exercise, even were one to entertain the contention that the  
10 Interrogatory did not contain discrete subparts, there are only two: 12  
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP  
12 Rule 33 which allows for 25 interrogatories.

13           This objection by plaintiff is not a justification to refuse to provide a  
14 response to the Interrogatory.

15           **3. The Interrogatory Seeks Information that is Outside of**  
16           **Responding Party's Knowledge**

17           Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's  
18 knowledge. This objection either wholly lacks merit or there are very troubling  
19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

20           How is it that plaintiff can bring such egregious allegations without some  
21 personal knowledge of witnesses who will support the allegations (including the  
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing  
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the  
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses  
25 that support allegations, the response should merely state there are none.  
26 Otherwise the witnesses should be identified.

27           This objection by plaintiff is not a justification to refuse to provide a  
28 response to the Interrogatories.

1           **4. The Interrogatory Invades the Attorney Client Privilege and**  
2           **Attorney Work Product Doctrine**

3           Plaintiff objects that identifying witnesses and the facts within a witnesses  
4 knowledge that supports allegations that Mr. Blakeman acted in some manner  
5 invades the attorney client privilege. There is no legal support for withholding  
6 witnesses identities based on the attorney client privilege. Personal knowledge  
7 about facts are not privileged. "[T]he protection of the privilege extends only to  
8 communications and not to facts. A fact is one thing and a communication  
9 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.  
10 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

11           This objection by plaintiff is not a justification to refuse to provide a  
12 response to the Interrogatory.

13           **5. The Interrogatory is Premature as a Contention Interrogatory**

14           Plaintiff alleges the Interrogatory seeks a contention and due to the early  
15 state of litigation and pre-trial discovery, responding party is unable to provide a  
16 complete response and, in any event, it is required to so; citing to *Kmiec v.*  
17 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at \*1;  
18 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31  
19 2014) at \*1-2.; and FRCP Rule 33(a)(2).

20           While this is an argument that contention interrogatories can be delayed, the  
21 subject interrogatories do not fall into that context; the responding party is the  
22 party making the allegations, not the one responding to the allegations.

23           This action involves plaintiffs (bound by their own pleading) in their  
24 individual capacities, as well as representative capacities, alleging intentional torts,  
25 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.  
26 Blakeman which each of these plaintiffs make include accusation of involvement  
27 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,  
28 rape and similar egregious crimes. Having made these allegations Plaintiffs must

1 have some idea of the witnesses, documents or facts to support the allegations.  
2 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

3 No substantive responses are provided. It is likely that no basis exists for  
4 these allegations against Mr. Blakeman; he is entitled to know the basis before  
5 facing a deposition by ambush.

6 Plaintiffs' refusal is fatally flawed in any event. The cases cited are  
7 inapposite.

8 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that  
9 asking contention interrogatories to a shareholder plaintiff early in litigation  
10 required more time for the litigation to develop. Such is not the case with the  
11 issues involved in this litigation, where Plaintiffs each claim to represent a class of  
12 people and make specific allegations against Mr. Blakeman for which (if pled  
13 honestly) Plaintiffs alone have the supporting facts.

14 *Folz* related to contention interrogatories on defendant's affirmative  
15 defenses; something that clearly would involve significantly more discovery to  
16 develop than is the situation here where defendant is simply seeking information  
17 regarding contention's made by plaintiffs in their initial pleadings; seeking only the  
18 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman  
19 committed some act. This information will allow Mr. Blakeman to depose such  
20 persons and to have a "just, speedy, and inexpensive determination [in this ]  
21 action." (FRCP Rule 1.)

22 The identification of witnesses is important not only to Mr. Blakeman's  
23 defense but also because they would contribute meaningfully to narrow the scope  
24 of the issues in dispute, set up early settlement discussions, and expose the  
25 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*  
26 *Technology Properties Ltd.*, 2011 WL 97787, at \*2 (N.D.Cal.,2011) These factors  
27 are important in assessing whether it would be appropriate for the early use of  
28 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

1 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue  
2 Rule 56 motions as there appears to be no evidence supporting the causes of action  
3 against him. It also appears that there is a lack of evidence to even support  
4 probable cause to pursue an action against him and a Rule 11 motion is likewise  
5 being considered. The discovery is thus also intended to ferret out what appears to  
6 be baseless character assassination.

7 *In re Convergent Technologies Securities Litigation* recognized the  
8 importance of the identification of witnesses as a type of contention interrogatory  
9 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the  
10 frame work it provides related to contention interrogatories, also noted that the  
11 frame work does not apply to the identity of witnesses with knowledge of the facts  
12 giving rise to the litigation or documents supporting material factual allegations.  
13 (See Id.) The Court compelled the disclosure of the identity of witnesses early in  
14 litigation. (Id. 108 F.R.D. at 332-333).

15 The *In re Convergent Technologies Securities Litigation* frame work to be  
16 applied to contention interrogatories has been examined in the Central District of  
17 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
18 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,  
19 explicated the evolution of the analysis of when contention interrogatories were  
20 appropriate.

21 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of  
22 the Federal Rules of Civil Procedure. Rule 1 of the Federal Rules of Civil  
23 Procedure directs that the rules “shall be construed to secure the just, speedy, and  
24 inexpensive determination of every action.” “There probably is no provision in the  
25 federal rules that is more important than this mandate. It reflects the spirit in which  
26 the rules were conceived and written, and in which they should be, and by and  
27 large have been, interpreted..... The Supreme Court of the United States has stated  
28 that these rules ‘are to be accorded a broad and liberal treatment’.” *Trevino v.*



1 *Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329  
2 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*,  
3 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable &*  
4 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal.  
5 1997).)

6 Judge Chapman allayed concerns about early use of contention  
7 interrogatories and recognized that contention interrogatories are allowed under the  
8 Federal Rules of Civil Procedure. Any concern about limiting proof based on  
9 limited answers to interrogatories is not well-founded because such answers may  
10 be withdrawn or amended, and parties have an ongoing obligation to “seasonably  
11 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

12 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*  
13 *Technologies Securities Litigation*, had recently even acknowledged the  
14 importance of early use of contention interrogatories in certain matters:

15  
16 In *Convergent Technologies*, Judge Wayne D. Brazil, in a  
17 very thoughtful opinion, held that the 1983 amendments to  
18 Fed.R.Civ.P. 26(b) compelled his conclusion that the  
19 “wisest course is not to preclude entirely the early use of  
20 contention interrogatories, but to place a burden of  
21 justification on the party who seeks answers to these kinds  
22 of questions before substantial documentary or testimonial  
23 discovery has been completed.... [T]he propounding party  
24 must present specific, plausible grounds for believing that  
25 securing early answers to its contention questions will  
26 materially advance the goals of the Federal Rules of Civil  
27 Procedure.” 108 F.R.D. at 338–39. More recently,  
28 however, Judge Brazil has modified his position, noting  
that contention interrogatories may in certain cases be the  
most reliable and cost-effective discovery device, which  
would be less burdensome than depositions at which  
contention questions are propounded. See *McCormick–*  
*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,  
287 (N.D.Cal.1991) (holding appropriately framed and  
timed contention interrogatories rather than depositions in  
patent infringement action was most appropriate vehicle  
for establishing infringers' contentions). *Cable &*  
*Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175  
F.R.D. 646, 651–52 (C.D. Cal. 1997).

1 In fact Judge Chapman, instead of placing the burden on the party  
2 propounding the request in justifying the need for early discovery on such issues,  
3 found placing the burden on the party opposing responding to the request, as is  
4 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

5 In this case, though, the requests made by Blakeman are appropriate no  
6 matter what analysis is applied to his alleged “contention interrogatories.” The  
7 requests seek to identify witnesses. If Blakeman has the burden to show this is  
8 necessary he easily meets it as there is no way he can potentially defend his case,  
9 bring motions under Rule 56, or bring motions under Rule 11 without knowing the  
10 witnesses who supposedly support the allegations he is in a gang, that he commits  
11 intentional torts of criminal nature, or that he is engaged in some act of negligence.  
12 Alternatively, plaintiffs cannot show that they could even meet their burden in  
13 resisting disclosure of this information.

14 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,  
15 violations of the Bane act) without having some witness to such acts by Mr.  
16 Blakeman let alone a witness who is a victim of such acts. This is compounded by  
17 the Plaintiffs’ initial disclosures that list only one witness who has some vague  
18 unspecified knowledge about Blakeman.

19 Surely Mr. Blakeman, who is accused of such things, and has timely  
20 requested supporting information for these very specific allegations, should have  
21 the opportunity to know about and to depose the witnesses who allegedly support  
22 such allegations. Surely if no such persons exist then the lack of such evidence  
23 must be exposed. Failing to indicate whether such evidence exists or does not  
24 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil  
25 Procedure.

26 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

27 **Plaintiffs' Contention**

28 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy

1 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
2 Plaintiffs are entitled to – and fully intend to – supplement their discovery  
3 responses when they "learn[] that in some material respect the disclosure or  
4 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,  
5 Defendant Blakeman is in control of much of the information needed to respond to  
6 his contention interrogatories but, to date, has refused to produce any documents or  
7 videos in response to Plaintiffs' discovery requests and in violation of his  
8 obligations under Federal Rule 26(a).

9 1. Unduly Burdensome, Harassing, and Duplicative

10 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the  
11 claims against Blakeman on the grounds that they already disclosed the names of  
12 potential witnesses in their initial and supplemental disclosures. Specifically,  
13 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a  
14 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

15 Mr. Blakeman already has the list of potential witnesses in his possession.  
16 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs  
17 to be compelled to identify these witnesses again.

18 2. Compound

19 Plaintiffs objected to Mr. Blakeman's requests to identify persons with  
20 knowledge of facts supporting their contentions and facts within each person's  
21 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits  
22 a party to 25 interrogatories propounded on any other party, including all discrete  
23 subparts.

24 Courts have consistently concluded that an interrogatory that asks a party to  
25 identify facts, documents, and witnesses should count as separate interrogatories.  
26 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at \*7 (S.D. Cal. July  
27 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,  
28 documents, and witnesses,] and these subparts must be multiplied by the number of

1 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger*,  
2 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and  
3 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.  
4 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

5 Mr. Blakeman's attempt to subvert the rules by asking interrogatories  
6 containing multiple impermissible subparts is wholly improper and therefore  
7 Plaintiffs' objection on this ground was appropriate.

8 3. Information Outside Plaintiff's Knowledge

9 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their  
10 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of  
11 witnesses to support their allegations. To the contrary, Plaintiffs have identified in  
12 their October 2, 2016, supplemental disclosures 105 witnesses who may possess  
13 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.  
14 To the extent Plaintiffs identify additional witnesses who support their claims  
15 throughout the course of discovery in this matter, Plaintiffs are aware of their  
16 obligation under the Federal Rules to timely supplement their discovery and  
17 disclosures.

18 Plaintiffs' objection on the grounds that the interrogatories seek information  
19 outside their knowledge is an objection *only to the extent* that the information  
20 sought is outside the individually-responding Plaintiff's knowledge. Although  
21 Plaintiffs neglected to include the words "to the extent that" preceding these  
22 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend  
23 their objections to include this wording, if the Court so orders.

24 4. Attorney-Client Privilege and Attorney Work Product Doctrine

25 Plaintiffs objected to the interrogatories *to the extent that* they invade the  
26 attorney-client privilege and/or the work product doctrine by compelling privileged  
27 communication and/or litigation strategy. These objections are worded such that  
28 either the attorney-client privilege or the attorney work product doctrine (or both)

1 could protect the information from disclosure. The objections do not state that  
2 both privileges necessarily apply to each piece of information sought.

3 Furthermore, Plaintiffs do not claim that all information sought is privileged,  
4 as evidenced by the inclusion of "to the extent that" preceding these objections.  
5 Rather, Plaintiffs have applied the work product doctrine to protect trial  
6 preparation materials that reveal attorney strategy, intended lines of proof,  
7 evaluations of strengths and weaknesses, and inferences drawn from interviews.  
8 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).  
9 Plaintiffs have applied the attorney-client privilege to protect confidential  
10 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156  
11 (9th Cir. 2010).

12 5. Premature Contention Interrogatories

13 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because  
14 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*  
15 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at \*1;  
16 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,  
17 2014) at \*1-2. This objection was proper.

18 Contention interrogatories need not be answered until discovery is  
19 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held  
20 that discovery was not "substantially complete" when the discovery cutoff was 4  
21 months away and depositions of fact witnesses or defendants had not yet occurred.  
22 The court opined that "[i]f Defendants had completed their document production,  
23 depositions were under way, and the discovery cutoff date was just a month or so  
24 away, Defendants *might* be entitled to the information they seek. But under the  
25 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at \*1  
26 (emphasis added).

27 Similarly, the *Folz* court found that discovery was not substantially complete  
28 and the responding party had adequate time to supplement his answers when the

1 discovery cutoff was 8 months away. *Folz*, at \*3. Even the case Mr. Blakeman  
2 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,  
3 2011), held that the responding party did not need to respond to contention  
4 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at \*3.

5 In the instant lawsuit, the discovery cutoff is more than 9 months away, on  
6 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –  
7 have produced any documents despite Plaintiffs' requests for production, and  
8 Plaintiff Cory Spencer only produced his first set of documents on November 4,  
9 2016. Additionally, the parties have only taken 6 out of the 20 possible  
10 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,  
11 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last  
12 month. Thus, it is clear that the parties are in the early stages of discovery.  
13 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not  
14 respond to Defendant Blakeman's premature contention interrogatories.

15 **DOCUMENT REQUESTS**

16 Please identify and produce:

17 1. Any and all DOCUMENTS that support your contention that any  
18 BRANT BLAKEMAN participated in any way in the "commission of enumerated  
19 'predicate crimes'" as alleged in paragraph 5 of the Complaint.

20 **Plaintiffs' Response to Document Request #1**

21 Responding Party objects to this request for production as premature.  
22 Because this request for production necessarily relies upon a contention, and  
23 because this matter is in its early stages and pretrial discovery has only just begun,  
24 Responding Party is unable to provide a complete response at this time, nor is  
25 required to do so. *See Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
26 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
27 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

28 Responding Party further objects to this request on the grounds that it



1 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
2 reasonable particularity each item of category of items to be inspected.”  
3 Propounding Party’s request for production do not describe an item or category of  
4 items with reasonable particularity.

5 Responding Party further objects to the extent that this request for  
6 production invades attorney-client privilege and/or violates the work product  
7 doctrine by compelling Responding Party to disclose privileged communications  
8 and/or litigation strategy. Responding Party will not provide any such information.

9 Subject to and without waiver of the foregoing objections, Responding party  
10 responds as follows:

11 Responding Party will produce all responsive documents within its  
12 possession, custody, or control.

13 **Defendant Brant Blakeman’s Contention**

14 The production request seeks documents that support plaintiff’s specific  
15 contention made against Brant Blakeman in his personal capacity, not as a member  
16 of a group but as an individual. No documents have been produced despite the  
17 response’s assertion that responsive documents would be produced in response to  
18 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

19 Failure to produce the information sought by the Request is intended only to  
20 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
21 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
22 take while he is unprepared in his defense to plaintiffs’ contentions against him.

23 The objections made in this response are largely without merit and it is  
24 unknown if any information is being withheld based on the objections. If  
25 responsive material is being withheld based on any such objection, the response  
26 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
27 part of the request being objected to. (Ibid.) No such indication is made in the  
28 response.

1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**  
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is  
5 premature on the same basis as it relates to contentions. The response cites to the  
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
7 "contention" production requests. To the contrary, the Court in *In re Convergent*  
8 *Technologies Securities Litigation* expressly noted that the analysis applied to  
9 when contention interrogatories needed be answered does not apply to production  
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
12 documents that bear on material factual allegations."]). The request at issue here  
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
14 Material facts are discoverable at the outset of litigation and these facts are  
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of  
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
18 police records related to the subject matter of this lawsuit. In initial disclosures  
19 Plaintiffs have identified hundreds of witnesses and copious documents that  
20 purportedly support their case. There is no basis in law for plaintiff to not now, at  
21 this phase of discovery in the litigation, not identify those specific documents that  
22 support any specific liability contentions as it applies to Mr. Blakeman as an  
23 individual. He is entitled to know precisely each liability contention - and any  
24 documents that support such contention - that is being made against him so that he  
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

28 ///

1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 2. Any and all DOCUMENTS that support your contention in paragraph  
16 7 of the Complaint that BRANT BLAKEMAN "is responsible in some manner for  
17 the Bane Act violations and public nuisance described in the Complaint."

18 **Plaintiffs' Response to Document Request #2**

19 Responding Party objects to this request for production as premature.  
20 Because this request for production necessarily relies upon a contention, and  
21 because this matter is in its early stages and pretrial discovery has only just begun,  
22 Responding Party is unable to provide a complete response at this time, nor is  
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
24 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

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1 Responding Party further objects to this request on the grounds that it  
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
3 reasonable particularity each item of category of items to be inspected.”  
4 Propounding Party’s request for production do not describe an item or category of  
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for  
7 production invades attorney-client privilege and/or violates the work product  
8 doctrine by compelling Responding Party to disclose privileged communications  
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party  
11 responds as follows:

12 Responding Party will produce all responsive documents within its  
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s contentions  
16 against Brant Blakeman in his personal capacity and specifically, not as a member  
17 of a group but as an individual. No documents have been produced despite the  
18 response’s assertion that responsive documents would be produced in response to  
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to  
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is  
25 unknown if any information is being withheld based on the objections. If  
26 responsive material is being withheld based on any such objection, the response  
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

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1 part of the request being objected to. (Ibid.) No such indication is made in the  
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**  
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is  
7 premature on the same basis as it relates to contentions. The response cites to the  
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
9 "contention" production requests. To the contrary, the Court in *In re Convergent*  
10 *Technologies Securities Litigation* expressly noted that the analysis applied to  
11 when contention interrogatories needed be answered does not apply to production  
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
14 documents that bear on material factual allegations."]). The request at issue here  
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
16 Material facts are discoverable at the outset of litigation and these facts are  
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of  
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
20 police records related to the subject matter of this lawsuit. In initial disclosures  
21 Plaintiffs have identified hundreds of witnesses and copious documents that  
22 purportedly support their case. There is no basis in law for plaintiff to not now, at  
23 this phase of discovery in the litigation, not identify those specific documents that  
24 support any specific liability contentions as it applies to Mr. Blakeman as an  
25 individual. He is entitled to know precisely each liability contention - and any  
26 documents that support such contention - that is being made against him so that he  
27 may appropriately defend against them.

28 The objection wholly lacks merit and should be removed.



1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 3. Any and all DOCUMENTS that support your contention in paragraph  
16 18 of the Complaint that BRANT BLAKEMAN "sell[s] market[s] and use[s]  
17 illegal controlled substances from the Lunada Bay Bluffs and the Rock Fort."

18 **Plaintiffs' Response to Document Request #3**

19 Responding Party objects to this request for production as premature.  
20 Because this request for production necessarily relies upon a contention, and  
21 because this matter is in its early stages and pretrial discovery has only just begun,  
22 Responding Party is unable to provide a complete response at this time, nor is  
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
24 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

26 Responding Party further objects to this request on the grounds that it  
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
28 reasonable particularity each item of category of items to be inspected.”

1 Propounding Party's request for production do not describe an item or category of  
2 items with reasonable particularity.

3 Responding Party further objects to the extent that this request for  
4 production invades attorney-client privilege and/or violates the work product  
5 doctrine by compelling Responding Party to disclose privileged communications  
6 and/or litigation strategy. Responding Party will not provide any such information.

7 Subject to and without waiver of the foregoing objections, Responding party  
8 responds as follows:

9 Responding Party will produce all responsive documents within its  
10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific  
13 contention made against Brant Blakeman in his personal capacity, not as a member  
14 of a group but as an individual. No documents have been produced despite the  
15 response's assertion that responsive documents would be produced in response to  
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

17 Failure to produce the information sought by the Request is intended only to  
18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to  
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is  
22 unknown if any information is being withheld based on the objections. If  
23 responsive material is being withheld based on any such objection, the response  
24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
25 part of the request being objected to. (Ibid.) No such indication is made in the  
26 response.

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1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**  
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is  
5 premature on the same basis as it relates to contentions. The response cites to the  
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
7 "contention" production requests. To the contrary, the Court in *In re Convergent*  
8 *Technologies Securities Litigation* expressly noted that the analysis applied to  
9 when contention interrogatories needed be answered does not apply to production  
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
12 documents that bear on material factual allegations."]). The request at issue here  
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
14 Material facts are discoverable at the outset of litigation and these facts are  
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of  
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
18 police records related to the subject matter of this lawsuit. In initial disclosures  
19 Plaintiffs have identified hundreds of witnesses and copious documents that  
20 purportedly support their case. There is no basis in law for plaintiff to not now, at  
21 this phase of discovery in the litigation, not identify those specific documents that  
22 support any specific liability contentions as it applies to Mr. Blakeman as an  
23 individual. He is entitled to know precisely each liability contention - and any  
24 documents that support such contention - that is being made against him so that he  
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

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1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 4. Any and all DOCUMENTS that support your contention in paragraph  
16 18 of the Complaint that BLAKE BRANTMAN "impede[d] boat traffic" at any  
17 time.

18 **Plaintiffs' Response to Document Request #4**

19 Responding Party objects to this request for production as premature.  
20 Because this request for production necessarily relies upon a contention, and  
21 because this matter is in its early stages and pretrial discovery has only just begun,  
22 Responding Party is unable to provide a complete response at this time, nor is  
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
24 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

26 Responding Party further objects to this request on the grounds that it  
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
28 reasonable particularity each item of category of items to be inspected.”



1 Propounding Party's request for production do not describe an item or category of  
2 items with reasonable particularity.

3 Responding Party further objects to the extent that this request for  
4 production invades attorney-client privilege and/or violates the work product  
5 doctrine by compelling Responding Party to disclose privileged communications  
6 and/or litigation strategy. Responding Party will not provide any such information.

7 Subject to and without waiver of the foregoing objections, Responding party  
8 responds as follows:

9 Responding Party will produce all responsive documents within its  
10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific  
13 contention made against Brant Blakeman in his personal capacity, not as a member  
14 of a group but as an individual. No documents have been produced despite the  
15 response's assertion that responsive documents would be produced in response to  
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

17 Failure to produce the information sought by the Request is intended only to  
18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to  
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is  
22 unknown if any information is being withheld based on the objections. If  
23 responsive material is being withheld based on any such objection, the response  
24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
25 part of the request being objected to. (Ibid.) No such indication is made in the  
26 response.

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1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**  
3 **Related to "Contentions"**

4 Plaintiff objects that producing the information supporting its contentions is  
5 premature on the same basis as it relates to contentions. The response cites to the  
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
7 "contention" production requests. To the contrary, the Court in *In re Convergent*  
8 *Technologies Securities Litigation* expressly noted that the analysis applied to  
9 when contention interrogatories needed be answered does not apply to production  
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
12 documents that bear on material factual allegations."]). The request at issue here  
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
14 Material facts are discoverable at the outset of litigation and these facts are  
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of  
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
18 police records related to the subject matter of this lawsuit. In initial disclosures  
19 Plaintiffs have identified hundreds of witnesses and copious documents that  
20 purportedly support their case. There is no basis in law for plaintiff to not now, at  
21 this phase of discovery in the litigation, not identify those specific documents that  
22 support any specific liability contentions as it applies to Mr. Blakeman as an  
23 individual. He is entitled to know precisely each liability contention - and any  
24 documents that support such contention - that is being made against him so that he  
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

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1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 5. Any and all DOCUMENTS that support your contention in paragraph  
16 18 of the Complaint that BLAKE BRANTMAN "dangerously disregard[ed]  
17 surfing rules" at any time.

18 **Plaintiffs' Response to Document Request #5**

19 Responding Party objects to this request for production as premature.  
20 Because this request for production necessarily relies upon a contention, and  
21 because this matter is in its early stages and pretrial discovery has only just begun,  
22 Responding Party is unable to provide a complete response at this time, nor is  
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
24 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

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1 Responding Party further objects to this request on the grounds that it  
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
3 reasonable particularity each item of category of items to be inspected.”  
4 Propounding Party’s request for production do not describe an item or category of  
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for  
7 production invades attorney-client privilege and/or violates the work product  
8 doctrine by compelling Responding Party to disclose privileged communications  
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party  
11 responds as follows:

12 Responding Party will produce all responsive documents within its  
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific  
16 contention made against Brant Blakeman in his personal capacity, not as a member  
17 of a group but as an individual. No documents have been produced despite the  
18 response’s assertion that responsive documents would be produced in response to  
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to  
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is  
25 unknown if any information is being withheld based on the objections. If  
26 responsive material is being withheld based on any such objection, the response  
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

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1 part of the request being objected to. (Ibid.) No such indication is made in the  
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**  
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is  
7 premature on the same basis as it relates to contentions. The response cites to the  
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
9 "contention" production requests. To the contrary, the Court in *In re Convergent*  
10 *Technologies Securities Litigation* expressly noted that the analysis applied to  
11 when contention interrogatories needed be answered does not apply to production  
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
14 documents that bear on material factual allegations."]). The request at issue here  
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
16 Material facts are discoverable at the outset of litigation and these facts are  
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of  
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
20 police records related to the subject matter of this lawsuit. In initial disclosures  
21 Plaintiffs have identified hundreds of witnesses and copious documents that  
22 purportedly support their case. There is no basis in law for plaintiff to not now, at  
23 this phase of discovery in the litigation, not identify those specific documents that  
24 support any specific liability contentions as it applies to Mr. Blakeman as an  
25 individual. He is entitled to know precisely each liability contention - and any  
26 documents that support such contention - that is being made against him so that he  
27 may appropriately defend against them.

28 ///



1 The objection wholly lacks merit and should be removed.

2 **2. The Request Fails to Identify with Reasonable Particularity the**  
3 **Item to be Inspected**

4 To the contrary, the Request is quite particular. It seeks documents that  
5 support a specific allegation made in the complaint against Mr. Blakemen. Who  
6 better to determine what documents support this pled contention than the plaintiffs  
7 making the allegations?

8 The objection wholly lacks merit and should be removed.

9 **3. The Request invades the Attorney Client Privilege and Attorney**  
10 **Work Product Doctrine**

11 The Request seeks documents that support plaintiff's material allegations  
12 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
13 counsels, it does not seek information that is work product. If plaintiffs intend to  
14 use documents offensively against Mr. Blakeman they cannot withhold such under  
15 the cloak of a privilege.

16 **Plaintiffs' Contention**

17 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
18 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
19 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
20 for Production of Documents. Despite these productions, Mr. Blakeman has  
21 insisted on moving forward with this motion to compel, yet has altogether failed to  
22 identify any deficiencies or issues with these productions.

23 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
24 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
25 Plaintiffs are entitled to preserve their objections in their discovery responses under  
26 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
27 document requests based on the premature nature of the requests, their lack of  
28 reasonable particularity, and the attorney-client privilege and/or attorney work

1 product doctrine.

2 Plaintiffs are also entitled to – and fully intend to – supplement their  
3 discovery responses when they "learn[] that in some material respect the disclosure  
4 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
5 precisely what Plaintiffs did when they produced documents on November 17,  
6 2016. Plaintiffs intend to continue to supplement their document production as  
7 necessary, consistent with the Rules.

8 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
9 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
10 Blakeman even earlier – prior to having produced any documents – so long as  
11 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
12 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
13 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
14 Mr. Blakeman.

15  
16 6. Any and all DOCUMENTS that support your contention that BLAKE  
17 BRANTMAN has illegally extorted money from beachgoers who wish to use  
18 Lumada Bay for recreational purposes. (See paragraph 33j. of the Complaint.)

19 **Plaintiffs' Response**

20 Responding Party objects to this request for production as premature.  
21 Because this request for production necessarily relies upon a contention, and  
22 because this matter is in its early stages and pretrial discovery has only just begun,  
23 Responding Party is unable to provide a complete response at this time, nor is  
24 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
25 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
26 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

27 Responding Party further objects to this request on the grounds that it  
28 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with

1 reasonable particularity each item of category of items to be inspected.”  
2 Propounding Party’s request for production do not describe an item or category of  
3 items with reasonable particularity.

4 Responding Party further objects to the extent that this request for  
5 production invades attorney-client privilege and/or violates the work product  
6 doctrine by compelling Responding Party to disclose privileged communications  
7 and/or litigation strategy. Responding Party will not provide any such information.

8 Subject to and without waiver of the foregoing objections, Responding party  
9 responds as follows:

10 Responding Party will produce all responsive documents within its  
11 possession, custody, or control.

12 **Defendant Brant Blakeman’s Contention**

13 The production request seeks documents that support plaintiff’s specific  
14 contention made against Brant Blakeman in his personal capacity, not as a member  
15 of a group but as an individual. No documents have been produced despite the  
16 response’s assertion that responsive documents would be produced in response to  
17 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

18 Failure to produce the information sought by the Request is intended only to  
19 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
20 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
21 take while he is unprepared in his defense to plaintiffs’ contentions against him.

22 The objections made in this response are largely without merit and it is  
23 unknown if any information is being withheld based on the objections. If  
24 responsive material is being withheld based on any such objection, the response  
25 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
26 part of the request being objected to. (Ibid.) No such indication is made in the  
27 response.

28 ///

1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**  
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is  
5 premature on the same basis as it relates to contentions. The response cites to the  
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
7 "contention" production requests. To the contrary, the Court in *In re Convergent*  
8 *Technologies Securities Litigation* expressly noted that the analysis applied to  
9 when contention interrogatories needed be answered does not apply to production  
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
12 documents that bear on material factual allegations."]). The request at issue here  
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
14 Material facts are discoverable at the outset of litigation and these facts are  
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of  
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
18 police records related to the subject matter of this lawsuit. In initial disclosures  
19 Plaintiffs have identified hundreds of witnesses and copious documents that  
20 purportedly support their case. There is no basis in law for plaintiff to not now, at  
21 this phase of discovery in the litigation, not identify those specific documents that  
22 support any specific liability contentions as it applies to Mr. Blakeman as an  
23 individual. He is entitled to know precisely each liability contention - and any  
24 documents that support such contention - that is being made against him so that he  
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

28 ///

1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 7. Any and all DOCUMENTS that support your contention that BLAKE  
16 BRANTMAN was a part of a Civil Conspiracy as identified in your complaint in  
17 paragraphs 51 through 53.

18 **Plaintiffs' Response to Document Request #7**

19 Responding Party objects to this request for production as premature.  
20 Because this request for production necessarily relies upon a contention, and  
21 because this matter is in its early stages and pretrial discovery has only just begun,  
22 Responding Party is unable to provide a complete response at this time, nor is  
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
24 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

26 Responding Party further objects to this request on the grounds that it  
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
28 reasonable particularity each item of category of items to be inspected.”

1 Propounding Party's request for production do not describe an item or category of  
2 items with reasonable particularity.

3 Responding Party further objects to the extent that this request for  
4 production invades attorney-client privilege and/or violates the work product  
5 doctrine by compelling Responding Party to disclose privileged communications  
6 and/or litigation strategy. Responding Party will not provide any such information.

7 Subject to and without waiver of the foregoing objections, Responding party  
8 responds as follows:

9 Responding Party will produce all responsive documents within its  
10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific  
13 contention made against Brant Blakeman in his personal capacity, not as a member  
14 of a group but as an individual. No documents have been produced despite the  
15 response's assertion that responsive documents would be produced in response to  
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

17 Failure to produce the information sought by the Request is intended only to  
18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to  
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is  
22 unknown if any information is being withheld based on the objections. If  
23 responsive material is being withheld based on any such objection, the response  
24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
25 part of the request being objected to. (Ibid.) No such indication is made in the  
26 response.

27 ///

28 ///



1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**  
3 **Related to "Contentions"**

4 Plaintiff objects that producing the information supporting its contentions is  
5 premature on the same basis as it relates to contentions. The response cites to the  
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
7 "contention" production requests. To the contrary, the Court in *In re Convergent*  
8 *Technologies Securities Litigation* expressly noted that the analysis applied to  
9 when contention interrogatories needed be answered does not apply to production  
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
12 documents that bear on material factual allegations."]). The request at issue here  
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
14 Material facts are discoverable at the outset of litigation and these facts are  
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of  
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
18 police records related to the subject matter of this lawsuit. In initial disclosures  
19 Plaintiffs have identified hundreds of witnesses and copious documents that  
20 purportedly support their case. There is no basis in law for plaintiff to not now, at  
21 this phase of discovery in the litigation, not identify those specific documents that  
22 support any specific liability contentions as it applies to Mr. Blakeman as an  
23 individual. He is entitled to know precisely each liability contention - and any  
24 documents that support such contention - that is being made against him so that he  
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

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1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 8. Any and all DOCUMENTS that support plaintiffs' First Cause of  
16 Action in the Complaint (Bane Act Violations) against BRANT BLAKEMAN.

17 **Plaintiffs' Response to Document Request #8**

18 Responding Party objects to this request for production as premature.  
19 Because this request for production necessarily relies upon a contention, and  
20 because this matter is in its early stages and pretrial discovery has only just begun,  
21 Responding Party is unable to provide a complete response at this time, nor is  
22 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
23 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
24 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

25 ///

26 ///

27 ///

28 ///

1 Responding Party further objects to this request on the grounds that it  
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
3 reasonable particularity each item of category of items to be inspected.”  
4 Propounding Party’s request for production do not describe an item or category of  
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for  
7 production invades attorney-client privilege and/or violates the work product  
8 doctrine by compelling Responding Party to disclose privileged communications  
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party  
11 responds as follows:

12 Responding Party will produce all responsive documents within its  
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific  
16 contention made against Brant Blakeman in his personal capacity, not as a member  
17 of a group but as an individual. No documents have been produced despite the  
18 response’s assertion that responsive documents would be produced in response to  
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to  
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is  
25 unknown if any information is being withheld based on the objections. If  
26 responsive material is being withheld based on any such objection, the response  
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

28 ///

1 part of the request being objected to. (Ibid.) No such indication is made in the  
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**  
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is  
7 premature on the same basis as it relates to contentions. The response cites to the  
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address  
9 "contention" production requests. To the contrary, the Court in *In re Convergent*  
10 *Technologies Securities Litigation* expressly noted that the analysis applied to  
11 when contention interrogatories needed be answered does not apply to production  
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333  
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for  
14 documents that bear on material factual allegations."]). The request at issue here  
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.  
16 Material facts are discoverable at the outset of litigation and these facts are  
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of  
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
20 police records related to the subject matter of this lawsuit. In initial disclosures  
21 Plaintiffs have identified hundreds of witnesses and copious documents that  
22 purportedly support their case. There is no basis in law for plaintiff to not now, at  
23 this phase of discovery in the litigation, not identify those specific documents that  
24 support any specific liability contentions as it applies to Mr. Blakeman as an  
25 individual. He is entitled to know precisely each liability contention - and any  
26 documents that support such contention - that is being made against him so that he  
27 may appropriately defend against them.

28 The objection wholly lacks merit and should be removed.

1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

16          Contrary to Defendant's contention, Plaintiffs produced 2,029 files on  
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016  
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request  
19 for Production of Documents. Despite these productions, Mr. Blakeman has  
20 insisted on moving forward with this motion to compel, yet has altogether failed to  
21 identify any deficiencies or issues with these productions.

22          Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy  
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.  
24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14  
15 9. Any and all DOCUMENTS that support plaintiffs' Second Cause of  
16 Action in the Complaint (Public Nuisance) against BRANT BLAKEMAN.

17 **Plaintiffs' Response to Document Request #9**

18 Responding Party objects to this request for production as premature.  
19 Because this request for production necessarily relies upon a contention, and  
20 because this matter is in its early stages and pretrial discovery has only just begun,  
21 Responding Party is unable to provide a complete response at this time, nor is  
22 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195  
23 (C.D. Cal. Dec. 2, 2014) at \*1; see also *Folz v. Union Pacific Railroad Company*,  
24 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at \*1-2.

25 ///

26 ///

27 ///

28 ///



1 Responding Party further objects to this request on the grounds that it  
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with  
3 reasonable particularity each item of category of items to be inspected.”  
4 Propounding Party’s request for production do not describe an item or category of  
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for  
7 production invades attorney-client privilege and/or violates the work product  
8 doctrine by compelling Responding Party to disclose privileged communications  
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party  
11 responds as follows:

12 Responding Party will produce all responsive documents within its  
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific  
16 contention made against Brant Blakeman in his personal capacity, not as a member  
17 of a group but as an individual. No documents have been produced despite the  
18 response’s assertion that responsive documents would be produced in response to  
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to  
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are  
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to  
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is  
25 unknown if any information is being withheld based on the objections. If  
26 responsive material is being withheld based on any such objection, the response  
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the  
28 part of the request being objected to. (Ibid.) No such indication is made in the

1 response.

2 Most importantly, the objections lack merit:

3 **1. The Production Request is Premature as Seeking information**  
4 **Related to “Contentions”**

5 Plaintiff objects that producing the information supporting its contentions is  
6 premature on the same basis as it relates to contentions. The response cites to the  
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16 certainly not ones that would be in the control of defendant.

17 Plaintiffs have had an opportunity through informal requests from the City of  
18 Palos Verdes and in discovery in this litigation to obtain literally thousands of  
19 police records related to the subject matter of this lawsuit. In initial disclosures  
20 Plaintiffs have identified hundreds of witnesses and copious documents that  
21 purportedly support their case. There is no basis in law for plaintiff to not now, at  
22 this phase of discovery in the litigation, not identify those specific documents that  
23 support any specific liability contentions as it applies to Mr. Blakeman as an  
24 individual. He is entitled to know precisely each liability contention - and any  
25 documents that support such contention - that is being made against him so that he  
26 may appropriately defend against them.

27 The objection wholly lacks merit and should be removed.

28 ///

1           **2. The Request Fails to Identify with Reasonable Particularity the**  
2           **Item to be Inspected**

3           To the contrary, the Request is quite particular. It seeks documents that  
4 support a specific allegation made in the complaint against Mr. Blakemen. Who  
5 better to determine what documents support this pled contention than the plaintiffs  
6 making the allegations?

7           The objection wholly lacks merit and should be removed.

8           **3. The Request invades the Attorney Client Privilege and Attorney**  
9           **Work Product Doctrine**

10          The Request seeks documents that support plaintiff's material allegations  
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'  
12 counsels, it does not seek information that is work product. If plaintiffs intend to  
13 use documents offensively against Mr. Blakeman they cannot withhold such under  
14 the cloak of a privilege.

15          **Plaintiffs' Contention**

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24 Plaintiffs are entitled to preserve their objections in their discovery responses under  
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's  
26 document requests based on the premature nature of the requests, their lack of  
27 reasonable particularity, and the attorney-client privilege and/or attorney work  
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1 Plaintiffs are also entitled to – and fully intend to – supplement their  
2 discovery responses when they "learn[] that in some material respect the disclosure  
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is  
4 precisely what Plaintiffs did when they produced documents on November 17,  
5 2016. Plaintiffs intend to continue to supplement their document production as  
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they  
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.  
9 Blakeman even earlier – prior to having produced any documents – so long as  
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).  
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more  
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to  
13 Mr. Blakeman.

14 Pursuant to L.R. 5-4.3.4 all signatories listed below concur with the filing's  
15 content and have authorized the filing of this Stipulation.

16  
17 Dated: November 28, 2016

Respectfully Submitted

18  
19 /s/ Kurt A. Franklin  
20 KURT A. FRANKLIN  
Attorney for Plaintiffs

21 Dated: November 28, 2016

Respectfully Submitted

22  
23 /s/ Victor Otten  
24 VICTOR OTTEN  
Attorney for Plaintiffs

1 Dated: November 28, 2016

Respectfully Submitted

2  
3 /s/ Peter Crossin

4 RICHARD DIEFFENBACH

JOHN P. WORGUL

5 PETER CROSSIN

6 Attorney for Defendant Brant Blakeman

7 Dated: November 28, 2016

Respectfully Submitted

8  
9 /s/ Robert S. Cooper

10 ROBERT S. COOPER

11 Attorney for Defendant Brant Blakeman

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. CV 16-02129 SJO (RAOx) Date August 29, 2016

Title Cory Spencer et al v. Lunada Bay Boys et al

Present: The Honorable S. JAMES OTERO

Victor Paul Cruz

Carol Zurborg

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Kurt A. Franklin  
Victor J. Otten

Tera A. Lutz  
John P. Worgul  
Richard P. Dieffenbach  
Peter T. Haven  
Mark Fields  
Edwin J. Richards, Jr.  
L. William Locke

**Proceedings:** SCHEDULING CONFERENCE

Matter called.

Counsel for Defendant Alan Johnston is not present.

Attorney William Locke advises the Court that his firm will represent defendants Frank Ferrara and Charlie Ferrara. The Court Orders that two said defendants will file an answer to the complaint by Friday, September 2, 2016.

The parties stipulate that the Court's order of 7/11/16 shall apply to all defendants.

The Court sets the following schedule:

The filing of a Motion for Class Certification shall be Friday, December 30, 2016; Opposition shall be due by January 13, 2017; Reply due Friday, January 20, 2017; Hearing on motion shall be set for Tuesday, February 21, 2017 @ 10:00 a.m.

Jury Trial: Tuesday, November 7, 2017 @ 9:00 a.m.

Pretrial Conference: Monday, October 23, 2017 @ 9:00 a.m.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. CV 16-02129 SJO (RAOx) Date August 29, 2016

Title Cory Spencer et al v. Lunada Bay Boys et al

Motion Cutoff: Monday, August 21, 2017 @ 10:00 a.m.

Discovery Cutoff: Monday, August 7, 2017

Last Date to Amend: Not provided

Reference of the above case to the Alternative Dispute Resolution Program is vacated.  
Settlement is referred to Private Mediation for all further proceedings.

All discovery disputes are to be brought before the Magistrate Judge assigned to the case. The parties are reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose information without a discovery request.

Court advises counsel that all Pretrial documents must be filed in compliance with the Court's standing order, including but not limited to:

1. All Jury Instructions, agreed and opposed;
2. Verdict Forms;
3. Proposed Voir Dire Questions;
4. Agreed-To Statement of Case;
5. Witness List, listing each witness and time estimates to conduct direct, cross, redirect and recross;
6. Trial Brief and Memorandum of Contentions;
7. Joint Rule 26(f) Report;
8. If Court Trial, file Findings of Fact and Conclusions of Law and summaries of direct testimony at Pretrial Conference;
9. Motions in Limine are to be filed according to Local Rule 7 and will be heard at 9:00 a.m. the first day of trial;
10. Exhibits properly labeled, tagged, and in binders.

cc: ADR Coordinator

\_\_\_\_\_: 0/23  
Initials of Preparer vpc